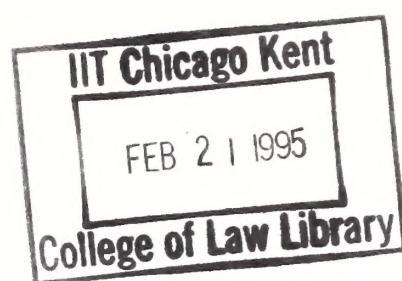


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**1995**

# ***Illinois Register***

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## **Rules of Governmental Agencies**

Volume 19, Issue 07— Feb. 17, 1995

Pages 1363-2073

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Index Department  
Administrative Code Div.  
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(217) 782-7017

published by  
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Secretary of State



## INTRODUCTION

The *Illinois Register* is the official state document for publishing public notice of rulemaking activity initiated by State governmental agencies. The table of contents is arranged categorically by rulemaking activity and alphabetically by agency within each category. The Register also contains a Cumulative Index listing alphabetically by agency the Parts (sets of rules) on which rulemaking activity has occurred in the current Register volume year and a Sections Affected Index listing by Title each Section (including supplementary material) of a Part on which rulemaking activity has occurred in the current volume year. Both indices are action coded and are designed to aid the public in monitoring rules.

Rulemaking activity consists of proposed or adopted new rules; amendments to or repealers of existing rules; and rules promulgated by emergency or peremptory action. Executive Orders and Proclamations issued by the Governor; notices of public information required by State statute; and activities (meeting agendas, Statements of Objection or Recommendation, etc.) of the Joint Committee on Administrative Rules (JCAR), a legislative oversight committee which monitors the rulemaking activities of State agencies; is also published in the Register.

The Register is a weekly update to the *Illinois Administrative Code* (a compilation of the rules adopted by State agencies). The most recent edition of the Code along with the Register comprise the most current accounting of State agencies' rules.

The Illinois Register is the property of the State of Illinois, granted by the authority of the Illinois Administrative Procedure Act [5 ILCS 100/1-1 et seq.].

## REGISTER PUBLICATION SCHEDULE 1995

Material Rec'd after 12:00 p.m. on:	And before 12:00 p.m. on:	Will be in Issue #:	Published on:	Material Rec'd after 12:00 p.m. on:	And before 12:00 p.m. on:	Will be in Issue #:	Published on:
Dec. 20, 1994	Dec. 27, 1994	1	Jan. 6, 1995	June 27, 1995	July 3, 1995	28	July 14, 1995
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## DEPARTMENT ON AGING

## NOTICE OF PROPOSED RULE

1) Heading of the Part: Community Care Program

2) Code Citation: 89 Ill. Adm. Code 240

3) Section Numbers: Proposed Action:

240.436 New Section

4) Statutory Authority: 20 ILCS 105/4.01(4), (9), (11) and (12);  
4.02; 4.03; and 5.02

5) A Complete Description of the Subjects and Issues Involved:

The purpose of this rulemaking is in response to the Whiteside v. Lindley, 92-CH-140, Consent Decree entered on March 9, 1994, in the Twentieth Judicial Circuit, in St. Clair County, Illinois. Plaintiffs challenged the Department's appeal process alleging that certain appeal policies and procedures violated a client's due process rights under the Fourteenth Amendment and State and Federal regulations when their Community Care Program services were either reduced or terminated.

In order to fulfill the agreement reached between the plaintiffs and the Department, the Department forwards this rule, specifying when an appeal may be cancelled.

6) Will this proposed rule replace an emergency rule currently in effect?  
No

7) Does this rulemaking contain an automatic repeal date? No

8) Does this proposed amendment contain incorporations by reference? No

9) Are there any proposed amendments pending on this Part? Yes

10) Statement of Statewide Policy Objectives: N/A

11) Time, Place, and Manner in which interested persons may comment on this proposed rulemaking:

Interested persons may present their written comments concerning this rulemaking, within 45 days after the date of this issue of the Illinois Register, to:

Ms. Pamela W. Balmer, Assistant  
Office of General Counsel

## DEPARTMENT ON AGING

## NOTICE OF PROPOSED RULE

Illinois Department on Aging  
421 East Capitol Avenue #100  
Springfield, Illinois 62701-1789  
Attention: Cancelling an Appeal  
(217) 782-4842

The proposed rule will have no impact on small businesses. In accordance with Sections 100/1-20 and 5-20 of the Illinois Administrative Procedure Act, any small business may yet present their comments to Ms. Pamela W. Balmer, at the above address.

Any small business (as defined in Section 100/1-75 of the Illinois Administrative Procedure Act) commenting on the rule amendment shall indicate their status as such, in writing, in their comments.

12) Initial Regulatory Flexibility Analysis:

A) Types of small businesses affected:

The Department on Aging, only, is affected by the rulemaking.

B) Reporting, bookkeeping or other procedures required for compliance:

An additional form, Notice of Cancellation, must be sent to affected parties by the Department.

C) Types of professional skills necessary for compliance:

Review for the timely submission of the form by Department staff will be necessary.

The full text of the Proposed Rule begins on the next page:



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AUTHORITY:

Implementing Section 4.02 and authorized by Section 4.01(1) of the Illinois Act on the Aging. [20 ILCS 105/4.02 and 4.01(1)].

SOURCE:

Emergency rules adopted at 4 Ill. Reg. 1, p. 67, effective December 20, 1979, for a maximum of 150 days; adopted at 4 Ill. Reg. 17, p. 131, effective April 25, 1980; amended at 4 Ill. Reg. 43, p. 86, effective October 15, 1980; emergency amendments at 5 Ill. Reg. 1900, effective February 18, 1981, for a maximum of 150 days; amended at 5 Ill. Reg. 12090, effective October 26, 1981; emergency amendments at 6 Ill. Reg. 8455, effective July 6, 1982, for a maximum of 150 days; amended at 6 Ill. Reg. 14953, effective December 1, 1982; amended at 7 Ill. Reg. 8697, effective July 20, 1983; codified at 8 Ill. Reg. 2633; amended at 9 Ill. Reg. 1739, effective January 29, 1985; amended at 9 Ill. Reg. 10208, effective July 1, 1985; emergency amendments at 9 Ill. Reg. 14011, effective August 29, 1985, for a maximum of 150 days; amended at 10 Ill. Reg. 5076, effective March 15, 1986; recodified at 12 Ill. Reg. 7980; amended at 13 Ill. Reg. 11193, effective July 1, 1989, for a maximum of 150 days; amended at 13 Ill. Reg. 17327, effective November 1, 1989; emergency amendments at 13 Ill. Reg. 13638, effective August 18, 1989, for a maximum of 150 days; amended at 13 Ill. Reg. 17327, effective November 1, 1989; amended at 14 Ill. Reg. 1233, effective January 12, 1990; amended at 14 Ill. Reg. 10732, effective July 1, 1990; emergency amendments at 15 Ill. Reg. 2838, effective February 1, 1991, for a maximum of 150 days; amended at 15 Ill. Reg. 10351, effective July 1, 1991; emergency amendments at 15 Ill. Reg. 14593, effective October 1, 1991 for a maximum of 150 days; emergency amendments at 15 Ill. Reg. 17398, effective November 15, 1991, for a maximum of 150 days; amended at 15 Ill. Reg. 18568, effective December 13, 1991; emergency amendments suspended at 16 Ill. Reg. 1744; emergency amendments at 16 Ill. Reg. 2630, effective February 1, 1992, for a maximum of 150 days; emergency amendments modified and reinstated at 16 Ill. Reg. 2943; emergency amendments at 16 Ill. Reg. 2901, effective February 6, 1992, to expire June 30, 1992; emergency amendments at 16 Ill. Reg. 4069, effective February 28, 1992, to expire June 30, 1992; amended at 16 Ill. Reg. 11403, effective June 30, 1992;

## DEPARTMENT ON AGING

## NOTICE OF PROPOSED RULE

emergency amendments at 16 Ill. Reg. 11625, effective July 1, 1992, for a maximum of 150 days; amended at 16 Ill. Reg. 11731, effective June 30, 1992; emergency rule added at 16 Ill. Reg. 12615, effective July 23, 1992, for a maximum of 150 days; modified at 16 Ill. Reg. 16680; amended at 16 Ill. Reg. 14565, effective September 8, 1992; amended at 16 Ill. Reg. 18767, effective November 27, 1992; amended at 17 Ill. Reg. 224, effective December 29, 1992; amended at 17 Ill. Reg. 6090, effective April 7, 1993; amended at 18 Ill. Reg. 609, effective February 1, 1994; emergency amendment at 18 Ill. Reg. 5348, effective March 22, 1994, for a maximum of 150 days; amended at 19 Ill. Reg. 13375, effective August 19, 1994; amended at 19 Ill. Reg. \_\_\_\_\_, effective \_\_\_\_\_.

## SUBPART D: APPEALS

## Section 240.436 Cancellling an Appeal

- a) The Department may cancel an appeal at any time during the appeal process for any of the following:
- 1) Appellant's death;
  - 2) Appellant never received a notice of adverse action from the Department;
  - 3) Appellant is not a Community Care Program applicant/client;
  - 4) Appellant moves out of State;
  - 5) Appellant's appeal is upheld by the Department;
  - 6) Appellant/appellant's authorized representative does not submit a Notice of Appeal to the Department within 60 calendar days from the date the notice of adverse action was sent;
  - 7) Appeal is not related to any Community Care Program services; and/or
  - 8) Appeal is filed by an unauthorized representative.
- b) The Department shall advise the appellant/authorized representative that the appeal is cancelled and formally closed, in writing, by certified mail, return receipt requested.
- c) If the appellant/appellant's authorized representative does not agree with the reason for cancellation, the appellant/appellant's authorized representative must notify the Department, in writing, within 10 work days of receipt of the Notice of Cancellation.
- d) If the appellant/appellant's authorized representative notifies the Department, in writing, within 10 work days of receipt of the Notice of Cancellation, the Department shall reinstate the appeal and continue the appeal process.
- e) The Department shall furnish copies of the Notice of Cancellation to all interested parties to the appeal.

(Source: Added at 19 Ill. Reg. \_\_\_\_\_, effective \_\_\_\_\_.)

## DEPARTMENT OF CHILDREN AND FAMILY SERVICES

## NOTICE OF PROPOSED AMENDMENTS

- 1) Heading of the Part: Services Delivered by the Department
- 2) Code Citation: 89 Ill. Adm. Code 302
- 3) Section Numbers: Proposed Action:  
302.310 Amend
- 4) Statutory Authority: Section 5 of the Children and Family Services Act [20 ILCS 505/5] and the Adoption Assistance and Child Welfare Act of 1980 (942 U.S.C.A. 670 et seq.)
- 5) A Complete Description of the Subjects and Issues Involved: The Department adopted emergency rules which required that families adopting special needs children shall be eligible to receive \$1.00 less than the amount the child had received for care and maintenance prior to the adoption. With those emergency amendments, family income and size of family no longer affect the monthly adoption assistance payment available to the family on behalf of the child. The Department is now proposing similar amendments to make the emergency rules permanent.
- 6) Will this proposed new section replace an emergency rule currently in effect? No.
- 7) Does this rulemaking contain an automatic repeal date? No.
- 8) Does this proposed new section contain incorporations by reference? No.
- 9) Are there any other amendments pending on this Part? No.
- 10) Statement of Statewide Policy Objectives: These rules do not create or expand a state mandate as defined in Section 3(b) of the State Mandates Act [30 ILCS 805/3(b)].
- 11) Time, Place, and Manner in which interested persons may comment on this proposed rulemaking:  
Comments on this proposed rulemaking may be submitted in writing for a period of 45 days following publication of this notice. Comments should be submitted to:

Jacqueline Nottingham, Chief  
Office of Rules and Procedures  
Department of Children and Family Services  
406 East Monroe, Station # 222  
Springfield, Illinois 62701-1498

Phone: (217) 524-1983



## DEPARTMENT OF CHILDREN AND FAMILY SERVICES

## NOTICE OF PROPOSED AMENDMENTS

TTY: (217) 524-3715

The Department will consider fully all written comments on this proposed rulemaking submitted during the 45-day comment period. Comments submitted by small businesses should be identified as such. Persons who need translation or interpretation services to enable their commentary should request assistance by contacting the Office of Rules and Procedures at one of the above numbers.

12) Initial Regulatory Flexibility Analysis: Not applicable

13) State reason(s) for this rulemaking if it was not included in either of the two (2) most recent regulatory agendas: This rulemaking was included in the Regulatory Agenda published in the January 13, 1995 Illinois Register.

The full text of the Proposed Amendments begins on the next page:

## DEPARTMENT OF CHILDREN AND FAMILY SERVICES

## NOTICE OF PROPOSED AMENDMENTS

TITLE 89: SOCIAL SERVICES

CHAPTER III: DEPARTMENT OF CHILDREN AND FAMILY SERVICES

SUBCHAPTER a: SERVICE DELIVERY

PART 302

SERVICES DELIVERED BY THE DEPARTMENT

SUBPART A: GENERAL PROVISIONS

Section	Purpose
302.10	Definitions
302.20	Introduction
302.30	Department Service Goals
302.40	Functions in Support of Services

## SUBPART B: REPORTS OF SUSPECTED CHILD ABUSE OR NEGLECT (RECODIFIED)

Section	Purpose
302.100	Reporting Child Abuse or Neglect to the Department (Recodified)
302.110	Content of Child Abuse or Neglect Reports (Recodified)
302.120	Transmittal of Child Abuse or Neglect Reports (Recodified)
302.130	Special Types of Reports (Recodified)
302.140	Referrals to the Local Law Enforcement Agency and State's Attorney (Recodified)
302.150	Delegation of the Investigation (Recodified)
302.160	The Investigative Process (Recodified)
302.170	Taking Children Into Temporary Protective Custody (Recodified)
302.180	Notification of the Determination Whether Child Abuse or Neglect Occurred (Recodified)
302.190	Referral for Other Services (Recodified)

## SUBPART C: DEPARTMENT CHILD WELFARE SERVICES

Section	Purpose
302.300	Adoptive Placement Services
302.305	Adoption Listing Service for Special Needs Children
302.310	Adoption Assistance
302.311	Nonrecurring Adoption Expenses
302.315	Adoption Registry
302.320	Counseling or Casework Services
302.330	Day Care Services
302.340	Emergency Caretaker Services
302.350	Family Planning Services
302.360	Health Care Services
302.370	Homemaker Services
302.380	Information and Referral Services
302.390	Placement Services

## DEPARTMENT OF CHILDREN AND FAMILY SERVICES

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## 302.400 Successor Guardianship

## SUBPART D: INTENSIVE FAMILY PRESERVATION SERVICES

Section	Purpose
302.500	Implementation of the Family Preservation Act
302.510	Types of Intensive Family Preservation Services
302.520	Phase In Plan for Statewide Family Preservation Services
302.530	Time Frames

## Appendix A Acknowledgement of Mandated Reporter Status (Recodified)

**AUTHORITY:** Authorized by Section 5 of and implementing the Children and Family Services Act [20 ILCS 505]; Section 3-6-2(g) of the Unified Code of Corrections [730 ILCS 5/3-6-2(g)]; the Illinois Alcoholism and Dangerous Drug Dependency Act [20 ILCS 350]; the Adoption Assistance and Child Welfare Act of 1980 (42 U.S.C.A. 670 et seq. and 45 CFR 1356.40 and 1356.41); the Juvenile Court Act of 1987 [705 ILCS 405]; and the Adoption Act [750 ILCS 50].

**SOURCE:** Adopted and codified at 5 Ill. Reg. 13188, effective November 30, 1981; amended at 6 Ill. Reg. 15529, effective January 1, 1983; recodified at 8 Ill. Reg. 92; peremptory amendment at 8 Ill. Reg. 5373, effective April 12, 1984; amended at 8 Ill. Reg. 12143, effective July 9, 1984; amended at 9 Ill. Reg. 2467, effective March 1, 1985; amended at 9 Ill. Reg. 9104, effective June 14, 1985; amended at 9 Ill. Reg. 15820, effective November 1, 1985; amended at 10 Ill. Reg. 5557, effective April 15, 1986; amended at 11 Ill. Reg. 1390, effective January 13, 1987; amended at 11 Ill. Reg. 1551, effective January 14, 1987; amended at 11 Ill. Reg. 1829, effective January 15, 1987; recodified to 89 Ill. Adm. Code 300 at 11 Ill. Reg. 3492, Sections 302.20, 302.100, 302.110, 302.120, 302.130, 302.140, 302.150, 302.160, 302.170, 302.180, 302.190, Appendix A; amended at 13 Ill. Reg. 18847, effective November 15, 1989; amended at 14 Ill. Reg. 3438, effective March 1, 1990; amended at 14 Ill. Reg. 16430, effective September 25, 1990; amended at 14 Ill. Reg. 19010, effective November 15, 1990; amended at 17 Ill. Reg. 274, effective December 31, 1992; emergency amendment at 17 Ill. Reg. 2513, effective February 10, 1993, for a maximum of 150 days; emergency expired on July 9, 1993; amended at 17 Ill. Reg. 13438, effective July 31, 1993; amended at 19 Ill. Reg. \_\_\_\_\_, effective \_\_\_\_\_.

## Section 302.310 Adoption Assistance

a) Adoption assistance, also known as adoption subsidy, shall be offered to persons adopting special needs children:

- 1) for whom the Department is legally responsible, or for whom the Department is not legally responsible who were eligible for Aid to Families with Dependent Children (AFDC) at the time the adoption petition was filed or who were eligible for Supplemental

## DEPARTMENT OF CHILDREN AND FAMILY SERVICES

## NOTICE OF PROPOSED AMENDMENTS

Security Income (SSI) prior to finalization of the adoption, and

- 2) who are legally free for adoption, and
- 3) who cannot or should not be returned to their parents' homes as determined by the standards delineated in 89 Ill. Adm. Code 305.8, and
- 4) for whom adoption without adoption assistance is unlikely or has been unsuccessful, and
- 5) who have been placed in the adoptive home and for whom an adoption assistance agreement, in accordance with subsection (e), has been signed prior to finalization of the adoption.

b) Special needs children are those:

- 1) who have irreversible or non-correctable physical or mental handicaps; or
- 2) who have physical, mental or emotional handicaps correctable through surgery, treatment, or other specialized services; or
- 3) who are 6 years of age or older; or
- 4) who are 3 years of age or older and are members of racial minorities; or
- 5) who are members of a sibling group who are being placed together where at least one child meets one or more of the above criteria.

c) Types and amounts of adoption assistance are based on the needs of the child and the circumstances of the family and may include:

- 1) ongoing monthly payments not to exceed \$1 less than the foster family care payment level which had been received or would be received if the child were in foster care;
- 2) one-time only payment for services related to legally completing the adoption;
- 3) payments for those physical, emotional and mental health needs which are not wholly payable through insurance or other public resources and which are associated with or result from a medical condition(s) whose onset has been established as occurring prior to the completion of the adoption.

d) A prospective adoptive family being presented with a child determined to be a special needs child shall be made aware of the availability of adoption assistance, the types of assistance available, the amount of payment which may be available, based on the needs, age, and placement of the child and adjusted for any benefits, such as Social Security or Veteran's benefits which the child will be receiving. and the circumstances of the family, and the methods used in determining the amount. Following a determination of the maximum amount available for payments, which is based on current family size, gross income and the age of the child to be adopted, the family and the Department shall determine the amount necessary to meet the child's needs, including basic care up to the maximum described in subsection (e). The type(s), amount and duration of adoption assistance shall be agreed to in writing by the Department and the adoptive parent(s) prior to the finalization of the adoption. The duration of adoption assistance may not extend beyond age 18 years (for children adopted



## DEPARTMENT OF CHILDREN AND FAMILY SERVICES

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after the effective date of this Part) unless the child has a mental or physical handicap. If the child adopted after the effective date of this Part has a mental or physical handicap and other assistance is not available, the assistance may be provided to age 21.

f) The adoptive parent(s) shall notify the Department when:

- 1) they are no longer legally responsible for the support of the child; or
- 2) the child is no longer receiving any financial support from the adoptive parent(s); or
- 3) the conditions for which periodic services were needed have changed; or
- 4) ~~significant changes have occurred in the circumstances of the adoptive parent(s) to provide necessary care for the child, or~~

4) the family has received notification of child's eligibility for certain benefits such as, social security, SSI, Veterans, railroad retirement or black lung benefits, etc. and the family has been named payee.

g) Adoption assistance payments shall be adjusted to reflect the above changes in circumstances. The Department shall annually review with the adoptive parent(s) the continuing need of the child for adoption assistance. Any adjustment in adoption assistance payments shall be made with prior written notice to the adoptive parent(s).

(Source: Amended at 19 Ill. Reg. \_\_\_\_\_, effective \_\_\_\_\_)

## DEPARTMENT OF CONSERVATION

## NOTICE OF PROPOSED AMENDMENTS

- 1) Heading of the Part: Camping on Department of Conservation Properties
- 2) Code Citation: 17 Ill. Adm. Code 130
- 3) 

<u>Section Numbers:</u>	<u>Proposed Action:</u>
130.40	Amendments
130.50	Amendments
130.60	Amendments
130.70	Amendments
130.80	Amendments
130.100	Amendments
- 4) Statutory Authority: Implementing and authorized by Sections 1.13, 1.4, 1.13, 2.24, 2.25, 2.26 and 3.36 of the Wildlife Code [520 ILCS 5.1.3, 1.4, 1.13, 2.24, 2.25, 2.26 and 3.36].
- 5) A complete description of the subjects and issues involved: Amendments include permitting a group of no more than 4 occupants to occupy up to two tents on a single campsite; issuing a camping permit for an unlimited number of nights from October 1 through April 30; changing camping dates; requiring a deposit at Dixon Springs and Pere Marquette youth/adult group camps before confirmation of reservation (the deposit is non-refundable unless notice is given); and updating statutory citations.
- 6) Will this proposed rule replace an emergency rule currently in effect? No
- 7) Does this rulemaking contain an automatic repeal date? No
- 8) Do these proposed amendments contain incorporations by reference? No
- 9) Are there any other proposed amendments pending on this Part? No
- 10) Statement of statewide policy objectives: This rule has no impact on local governments.
- 11) Time, place and manner in which interested persons may comment on this proposed rulemaking: Comments on the proposed rule may be submitted in writing for a period of 45 days following publication of this notice to:  
  

Jack Price  
Department of Conservation  
524 S. Second Street, Room 430  
Springfield, IL 62701-1787  
217/782-1809
- 12) Initial regulatory flexibility analysis: This rule does not affect small businesses.

DEPARTMENT OF CONSERVATION  
NOTICE OF PROPOSED AMENDMENTS  
TITLE 17: CONSERVATION  
CHAPTER I: DEPARTMENT OF CONSERVATION  
SUBCHAPTER a: LANDS AND HISTORIC SITES

PART 130  
CAMPING ON DEPARTMENT OF CONSERVATION PROPERTIES

Section	Location
130.10	Purpose of Campground
130.20	Classification of Camps by Equipment Used - Definitions
130.30	Definition of a Camp
130.40	Registrations
130.50	Permits, Extensions and Time Limits
130.60	Fees and Charges
130.70	Refunds
130.80	Check-in and Check-out Times
130.90	Unoccupied Camps
130.100	Vehicles per Camp (Refer to 17 Ill. Adm. Code Section 130.30)
130.110	Youth Group (Boy Scouts, Girl Scouts, Explorers, church groups, or others)
130.120	Organization Group Camps (charter organizations, ROTC, private clubs or others)
130.130	Campground Host Program
130.140	Use of Campground
130.150	Eviction

AUTHORITY: Implementing and authorized by Sections 1, 4(1), and 4(5) of the State Parks Act [20 ILCS 835/1, 4(1) and 4(5)], and by Sections 63a23 and 63a28 of the Civil Administrative Code of Illinois [20 ILCS 805/63a23 and 63a28].

SOURCE: Adopted at 4 Ill. Reg. 7, p. 110, effective February 4, 1980; emergency amendment at 5 Ill. Reg. 5707, effective June 1, 1981 for a maximum of 150 days; codified at 5 Ill. Reg. 10623; amended at 5 Ill. Reg. 14568, effective December 9, 1981; amended at 6 Ill. Reg. 3840, effective March 31, 1982; amended at 6 Ill. Reg. 9626, effective July 21, 1982; amended at 6 Ill. Reg. 14835, effective November 24, 1982; amended at 7 Ill. Reg. 5870, effective April 22, 1983; amended at 8 Ill. Reg. 5647, effective April 16, 1984; amended at 9 Ill. Reg. 6173, effective April 23, 1985; amended at 9 Ill. Reg. 11594, effective July 16, 1985; amended at 10 Ill. Reg. 9777, effective May 21, 1986; amended at 10 Ill. Reg. 13244, effective July 28, 1986; amended at 11 Ill. Reg. 9506, effective May 15, 1987; amended at 14 Ill. Reg. 12402, effective July 20, 1990; emergency amendment at 16 Ill. Reg. 7925, effective May 11, 1992, for a maximum of 150 days; emergency expired October 8, 1992; amended at 16 Ill. Reg. 15982, effective October 2, 1992; amended at 18 Ill. Reg. 1126, effective January 18, 1994; amended at 19 Ill. Reg. \_\_\_\_\_, effective \_\_\_\_\_.

DEPARTMENT OF CONSERVATION  
NOTICE OF PROPOSED AMENDMENTS

13) State reason(S) for this rulemaking if it was not included in either of the two most recent regulatory agendas: Included in Regulatory Agendas submitted for period January 1 - June 30, 1995

The full text of the proposed amendments begins on the next page:



## DEPARTMENT OF CONSERVATION

## NOTICE OF PROPOSED AMENDMENTS

## Section 130.40 Definition of a Camp

- a) "Camp" means a single family or group occupying one shelter.
- b) A "Single Family" consists of either or both parents and unmarried children. Other family members will be considered as part of the family as long as they occupy the same shelter, but not to exceed a total of four (4) adults (18 years of age or older).
- c) The "Single Group" consists of unrelated adults (18 years of age or older) with or without children occupying the same shelter. This group would not exceed four (4) occupants. (Except for Rent-A-Camp sites with an extra large tent which would not exceed eight (8) occupants.)
- d) A "Camp Shelter" is the portable equipment used by the single family or group for bedding and housing. It may consist of sleeping bag, jungle hammock, station wagon, tent, trailer, bus, tarp, car or boat.
- e) If more than one camp shelter is required for the single family or group, they shall occupy separate camps. (Minor children (under 18) sleeping in sleeping bags or in a tent outside the family shelter are considered occupants sharing the same shelter); or a group of no more than four occupants may occupy up to two tents on a single campsite.
- f) In no case will two or more tent trailers, travel trailers, self-propelled mobile campers, pick-up campers, or any combination thereof be considered as a single camp.
- g) Where campgrounds are laid out in defined sites, not more than one camp will be permitted on a site. Where campgrounds are not laid out in sites, the number of camps will be determined by the capacity of the existing sanitary facilities, parking areas, soil and turf conditions, potential social conflicts between campers due to crowding, and similar factors as determined by department staff.

(Source: Amended at 19 Ill. Reg. \_\_\_\_\_, effective \_\_\_\_\_)

## Section 130.50 Registrations

- a) A permit will be issued and fees collected at the time the camp is established or as soon as possible thereafter (see Sections 130.70 and 130.80).
- b) The camping attendant has the authority to assign sites.
- c) A responsible adult (18 years of age or older) from the camping party must register for the party and thereby acknowledge compliance to the rules and regulations of the park for the party.
- d) Curfew: the provisions of Section 1 of the Child Curfew Act ~~Rev. Stat. 1997-CH-237-Par-2-11~~ [720 ILCS 555/1] with reference to curfew for persons under the age of 17 years are in effect on Department of Conservation properties.
- e) The camp shelter or any other camping equipment shall not be brought into the park prior to the arrival of the camping party.
- f) No camping equipment shall be placed on any campground site while that

## DEPARTMENT OF CONSERVATION

## NOTICE OF PROPOSED AMENDMENTS

site is occupied by another camping party. A person acquiring a permit must have camp shelter at the time of registration and must occupy the site at that time.

- g) In "emergency situations", the camping attendant may designate an area and charge a fee commensurate with facilities provided (see Section 130.70).
- h) Reservations will be accepted at selected sites offering this service. An additional \$5.00 non-refundable fee must be submitted for each site reserved.

(Source: Amended at 19 Ill. Reg. \_\_\_\_\_, effective \_\_\_\_\_)

## Section 130.60 Permits, Extensions and Time Limits

- a) A camp permit may be issued for a period not to exceed 14 consecutive nights between the dates of May 1 through September 30. Persons are eligible to camp at a specific Department of Conservation facility for a maximum of 14 nights in a 30 day period between the dates of May 1 through September 30. The 30 day period starts from the first day the person actually obtains a bona fide camping permit and the camping equipment involved is subject to these limitations also. From October 1 through April 30, a camping permit may be issued for an unlimited number of nights during this time period.

- b) Exceptions to the above time limit may be made in the following instance: In bona fide emergency cases involving serious illness or accident which makes compliance with the rules impossible and only for the duration of the emergency - the burden of proof is on the permittee and the Site Superintendent should be satisfied by investigation or inquiry that facts in the case warrant consideration before granting an extension.

- c) During periods when a vacancy occurs in the reservation schedule at the Pere Marquette group camps, day use shall be allowed during a twelve-hour period beginning at 9:00 a.m. and ending at 9 p.m. Reservations will be made by application to the site superintendent. (Application requirements: name of organization, address, number of campers, person in charge, phone number, and age of campers).

(Source: Amended at 19 Ill. Reg. \_\_\_\_\_, effective \_\_\_\_\_)

## Section 130.70 Fees and Charges

- a) The full amount of the camping fee and, if applicable, the utility fee shall be collected at the time the permit is issued. If checks are taken, they shall be made payable to the Illinois Department of Conservation and the site identified. Camping fees vary in accordance with the degree of campground development and type of facilities

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available effective May 11, 1992 as follows:

- 1) Spring - Summer Camping (May 15 1 through September 15 30)
  - A) Class A Sites: Camping fee of \$8.00 per night per site, \$3.00 utility fee. Sites having availability to showers, electricity and vehicular access.
  - B) Class B-E Sites: Camping fee of \$7.00 per night per site, \$3.00 utility fee. Sites having availability to electricity and vehicular access.
  - C) Class B-S Sites: Camping fee of \$8.00 per night per site. Sites having availability to showers and vehicular access.
  - D) Class C Sites: Camping fee of \$7.00 per night per site. Sites having vehicular access.
  - E) Class D Sites: Camping fee of \$6.00 per night per site. Tent camping at primitive sites (walk-in or backpack) with no vehicular access.
  - F) Youth Group Camping: \$1.00 per person, minimum daily camping fee of \$10.00.
  - G) Adult Group Camping: \$3.00 per person, minimum daily camping fee of \$30.00.
  - H) Each student or member of an organized youth group utilizing facilities furnished at Dixon Springs State Park and Pere Marquette State Park shall pay a fee of \$3.00 per night or \$4.00 per night for each member of an organized adult group. At Dixon Springs, a deposit of \$30 for youth groups and \$40 for adult groups will be required before confirmation of a reservation. At Pere Marquette, a deposit of \$75 for youth groups and \$100 for adult groups will be required before confirmation of a reservation. The deposits will be credited to the total camping fee. Fees for day use of the group camps at Pere Marquette shall be \$30.00 per day for youth groups and \$45.00 per day for adult groups.
  - I) Rent-A-Camp Sites will be made available at designated state parks and recreational areas throughout the Department's statewide system. These designated areas will provide, at additional fees of \$8.00 and \$12.00 per night, one large tent (approximately 10' x 13') or one extra large tent (approximately 14' x 14'), respectively (erected), with wood floor, one charcoal grill, one picnic table, one trash barrel, and either four (4) sleeping cots per large tent or eight (8) sleeping cots per extra large tent. The total overnight fee for a rent-a-camp will be based on the basic fees given of \$8.00 or \$12.00 per night in addition to the fee for the class of the camping site A through D on which the rent-a-camps are located, as follows:
    - i) Rent-A-Camp at Class A Sites:
      - \$16.00 or \$20.00 plus \$3.00 utility fee per night per site at all sites having availability to showers, electricity and vehicular access.

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- ii) Rent-A-Camp at Class B-E Sites:
  - \$15.00 or \$19.00 plus \$3.00 utility fee per night per site at all sites having availability to electricity and vehicular access.
- iii) Rent-A-Camp as Class B-S Sites: \$16.00 or \$20.00 per night per site at all sites having availability to showers and vehicular access.
- iv) Rent-A-Camp at Class C Sites:
  - \$15.00 or \$19.00 per night per site at all sites having vehicular access.
- v) Rent-A-Camp at Class D Sites:
  - \$14.00 or \$18.00 per night per site at all sites having tent camping or primitive sites (walk-in or backpack) with no vehicular access.
- J) A \$5.00 per campsite non-refundable fee must be remitted at those facilities offering reservation services. This fee applies to reservations for group camp sites as well as individual site reservations.
- 2) Fall - Winter Camping (~~September-16-through-May-14~~ October 1 through April 30)
  - A) As long as buildings, water and electrical service are available, regardless of the date, the regular camping fee will apply.
  - B) When cold weather requires closing down buildings and shutting off water in Class A campgrounds, the fee shall be reduced commensurate with the services and facilities available for use.
  - C) The fee for primitive campsites shall be \$6.00 per site. When a change in facilities is made and a campsite is reclassified, the fee for a site will change automatically.
  - b) Exceptions: Employees, Concessionaires, and Special Legislation
    - 1) Except for temporary employees of the Department of Conservation who qualify and are placed in the campground host program at approved camping sites, employees of the Department of Conservation or any other state agency, regardless of their official status, will be required to pay the established camping fee.
    - 2) The concessionaire, manager, or a responsible employee designated by the concessionaire will not be charged the regular camping fee. Rent will be paid at the rate established by the Department or pursuant to the concession lease.
    - 3) An Illinois resident age 62 or older, or a person who has a Class 2 disability as defined in Section 4A of the Illinois Identification Card Act ~~441-1997-Stat--1247-CH--1247-Par--244~~ (15 ILCS 335/4A) or a disabled veteran, or a former prisoner of war as defined in Section 5 of the Department of Veterans Affairs Act ~~441-Rev-Stat--1997-CH--196-12-Par--28~~ (20 ILCS 2805/5), is entitled to the following camping fee provisions,



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NOTICE OF PROPOSED AMENDMENTS

upon qualifying, which will allow the spouse or minor (under 18) children, or minor grandchildren to be included in the camping party. All other members must be registered and pay the regular camping fee for the facilities provided.

A) Illinois residents age 62 or older will be charged one-half the established camping fee on any Monday, Tuesday, Wednesday or Thursday, at Class A and B sites but must pay the entire established camping fee on all sites on any Friday, Saturday or Sunday, and, if at a site with utilities, must pay the entire utility fee for each day of camping. Verification of age may be made by any document required by law to establish proof of age and date of birth and issued by a federal or state governmental agency. No fee on Class C and D sites Monday through Thursday.

B) Illinois residents who have a Class 2 disability and present a current Illinois Disabled Person Identification Card issued by the Secretary of State will be charged one-half the established camping fee for Class A and B sites on any Monday, Tuesday, Wednesday, or Thursday, but must pay the entire established camping fee for any Friday, Saturday or Sunday, and, if at a site with utilities, must pay the entire utility fee for each day of camping. No fee on Class C and D sites.

C) An Illinois resident who is a disabled veteran, or former prisoner of war may camp without being charged a camping fee, but if at a site with utilities, must pay the entire utility fee for each day of camping. An individual wishing to qualify for free camping under the provisions stated above must be able to submit the appropriate document issued by the Illinois Department of Veterans' Affairs (Ill-Rev-Stat-1991-ch-126-1/27-par-79) [20 ILCS 2805/5].

(Source: Amended at 19 Ill. Reg. \_\_\_\_\_, effective \_\_\_\_\_)

Section 130.80 Refunds

a) A refund of camping and utility fees for unused time shall be made upon the request of the registered camper. No personal check refunds shall be made sooner than 10 days after the check has been deposited to insure clearance. Refunds will be made in the field out of current cash receipts. Refunds for Camper's Permit will be prepared and appropriate copies submitted to accounting.

b) Refund forms must be completed whenever a camper requests a refund for the unused portion of this camping permit.

c) The person requesting the refund must show identification at the time of the refund.

d) The camper's copy of the permit must be surrendered at the time of the

refund.  
e) Rent-A-Camp reservation deposits will not be refunded by the Department.  
f) No refunds will be made for reservation fees unless the campground is closed by the Department.  
g) The deposit required for organized group camps at Pere Marquette and Dixon Springs will be non-refundable unless notice of cancellation is received by 30 days prior to reservation date.

(Source: Amended at 19 Ill. Reg. \_\_\_\_\_, effective \_\_\_\_\_)

Section 130.100 Unoccupied Camps

a) A camper may leave his camp unoccupied at his own risk for no more than 24 hours during the period between May-15 and September-15 May 1 and September 30. The permit will be revoked for any camp which is continuously vacant for longer than 24 hours. No refund will be issued in this case.

b) During the period between September-16 and May-14 October 1 and April 30, a camper may leave his camp unoccupied at his own risk by paying the camping fee and, if at a site with utilities, the utility fee for the entire period covered by the permit, within the limits set by Section 130.60), when notification has been given to the site superintendent.

c) A camp is deemed to have been abandoned if a camper does not appear to remove his camping equipment within 24 hours of the expiration of his camping permit. When a camp is abandoned, staff will attempt to call the owner at the phone number associated with the license plate number of the camping vehicle. Following this effort, the camp equipment will be inventoried by park staff with an authorized peace officer and it will be removed to a place for safeguarding in the maintenance area for storage. If the owner cannot be located within 30 days, it will be sent to the Law Enforcement Division of the Department for disposal under the rules of abandoned property. Law Enforcement Division of Property Act (Ill-Rev-Stat-1991-ch-141-par-141-et-seq) (765 ILCS 1030) and the Illinois Vehicle Title and Registration Law (Ill-Rev-Stat-1991-ch-95-1/27-par-4-201-et-seq) [625 ILCS 5/Ch. 4, Art. II].

(Source: Amended at 19 Ill. Reg. \_\_\_\_\_, effective \_\_\_\_\_)

## DEPARTMENT OF CONSERVATION

## NOTICE OF PROPOSED AMENDMENTS

- 1) Heading of the Part: Public Use of State Parks and Other Properties of the Department of Conservation

- 2) Code Citation: 17 Ill. Adm. Code 110

- 3) Section Number:

110.4	Amendments
110.40	Amendments
110.160	Amendments
110.180	Amendments

Proposed Action:

- 4) Statutory Authority: Implementing and authorized by Section 8 of the State Forest Act (525 ILCS 40/8) and by Sections 1, 2, 4 and 6 of the State Parks Act (20 ILCS 835/1, 2, 4 and 6) and by Section 5 of the State Parks Designation Act (20 ILCS 840/5) and by Sections 63a, 63a1, 63a15, 63a18, 63a21.1 and 63a28 of the Civil Administrative Code of Illinois (20 ILCS 805/63a, 63a1, 63a15, 63a18, 63a21.1 and 63a28).

- 5) A complete description of the subjects and issues involved: Amendments are being made to permit motorized off-loading and loading of boats onto their trailers at specified boat ramps where the use of larger motors would not be allowed by existing horsepower limitations; add language indicating it is unlawful, except in cases of emergency, to land or attempt to land any aircraft on Department property without prior approval; and update statutory citations.

- 6) Will this proposed rule replace an emergency rule currently in effect? No

- 7) Does this rulemaking contain an automatic repeal date? No

- 8) Do these proposed amendments contain incorporations by reference? No

- 9) Are there any other proposed amendments pending on this Part? No

- 10) Statement of statewide policy objectives: This rule has no impact on local governments.

- 11) Time, place and manner in which interested persons may comment on this Proposed rulemaking: Comments on the proposed rule may be submitted in writing for a period of 45 days following publication of this notice to:

Jack Price  
Department of Conservation  
524 S. Second Street, Room 430  
Springfield, IL 62701-1787  
217/782-1889

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- 12) Initial regulatory flexibility analysis: This rule does not affect small businesses

- 13) State reason(s) for this rulemaking if it was not included in either of the two most recent regulatory agendas: Included in Regulatory Agendas submitted for the period January 1 - June 30, 1995

The full text of the proposed amendments begins on the next page:





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larger than 10 H.P. on any body of water under the jurisdiction of the Department that has 60 or more surface acres of water area except departmentally supervised waters of over 500 acres and portions of canals having specific regulations posted on boat motor size and boat use allowed and except that an outboard horsepower restriction shall not apply at posted boat launch ramps while loading or unloading a trailered watercraft; provided that the watercraft over the H.P. limit is operated at a no-wake speed within 150 feet of the loading ramp itself.

- d) For any person to allow his boat or other watercraft to remain on any of the public recreational and fishing areas under the jurisdiction of the Department beyond the date of December 1st of each year.

(Source: Amended at 19 Ill. Reg. \_\_\_\_\_, effective \_\_\_\_\_)

**Section 110.160 Vehicles -- Operation on Roadway -- Speed -- Parking -- Weight Limit**

- a) For any person to operate any motor vehicle other than on roadways specifically posted as trafficways by the Department of Conservation, except that Site Superintendents shall, if it is to the Department's benefit, grant written permission to individuals or contractors to operate vehicles on other than roadways specifically posted as trafficways. These exceptions will include, but not be limited to, access by lessees to leased property or adjacent private property; access by contractors to the contract work site(s); access by volunteers to project or program areas which assist the site.

- 1) For any person to operate a snowmobile in any area other than on posted trails as provided in 17 Ill. Adm. Code 2090 except that Site Superintendents shall, if it is to the Department's benefit, grant written permission to individuals to operate snowmobiles on other than posted trails. These exceptions will include, but not be limited to, access by lessees to leased property or adjacent private property; access by contractors to the contract work site(s); access by volunteers to project or program areas which assist the site.

- 2) For any person to operate any motor driven bicycle, mini-bike, motorcycle or off-road vehicle unless it is on a roadway designated for vehicular use or on a designated area established by the Department for off-road vehicular use, except that Site Superintendents shall, if it is to the Department's benefit, grant written permission to individuals to operate such vehicles in areas other than those designated for off-road vehicular use. These exceptions will include, but not be limited to, access by lessees to leased property or adjacent private property; access by contractors to the contract work site(s); access by volunteers to project or program areas which assist the site.

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- b) To exceed a speed of 20 M.P.H. unless it is otherwise posted by sign on any paved, concrete, asphalt or other all-weather roadway, or to exceed 10 M.P.H. unless otherwise posted by sign on any unpaved, gravel or dirt roadway or in any parking area.
- c) For any person to park a motor vehicle in any prohibited area which is posted with signs, or to park a vehicle in any area for the purpose of repair, except those immediate repairs necessary to remove the vehicle from the area immediately.
- d) To exceed a combined vehicle and content weight limit of 20,000 lbs. (10 ton) unless it is otherwise posted by sign on any Department roadway except that Site Superintendents shall, if it is to the Department's benefit, grant written permission to individuals or contractors to operate such vehicles on posted roadways. These exceptions will include, but not be limited to, access by lessees utilizing farm equipment to get to leased property or adjacent private property; access by contractors to the contract work site(s); access by vendors delivering materials.
- e) It is unlawful for any person to operate a snowmobile in any portion of a park or recreation area with less than four inches of snow cover.
- f) Except in cases of emergency, it shall be unlawful for any person to land or attempt to land any aircraft on Department property without prior authorization from the Department.

(Source: Amended at 19 Ill. Reg. \_\_\_\_\_, effective \_\_\_\_\_)

**Section 110.180 Violation of Rule**

- a) Any person who violates any provision of this rule ~~(Section 110.20 through Section 110.170)~~ shall be guilty of a Class B Misdemeanor.
- b) Any person who violates any provision of this rule ~~(Section 110.10 through Section 110.170)~~ shall be subject to arrest and/or removal from the premises under applicable statutes including Section 21-5 of the Criminal Code of 1961 ~~(111 Rev. Stat., 1987, ch. 38, par. 21-5)~~ [720 ILCS 5/21-5], Criminal Trespass to State Supported Land.

(Source: Amended at 19 Ill. Reg. \_\_\_\_\_, effective \_\_\_\_\_)



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1) Heading of the Part: White-Tailed Deer Hunting by Use of Bow and Arrow

2) Code Citation: 17 Ill. Adm. Code 670

3) Section Numbers: Proposed Action:

670.1) Amendments  
 670.20 Amendments  
 670.30 Amendments  
 670.40 Amendments  
 670.50 Amendments  
 670.60 Amendments

4) Statutory Authority: Implementing and authorized by Sections 1.2, 1.3, 1.4, 2.1, 2.2, 2.24, 2.25, 2.26, 2.33, 3.5 and 3.36 of the Wildlife Code (520 ILCS 5-1.2, 1.3, 1.4, 2.1, 2.2, 2.24, 2.25, 2.26, 2.33, 3.5 and 3.36).

5) A complete description of the subjects and issues involved: Amendments to this Part allow for the sale of archery deer permits over-the-counter (OTC) through licensed vendors. The new OTC permit is a combination permit consisting of one either-sex and one antlerless only permit. The cost of the combination permits is \$25, a single either-sex permit will still be available by mail from the permit office. The issuance of head and hide tags with the permit is discontinued so that the OTC permits will not be too large. Site-specific rules were standardized to simplify the rule.

6) Will this proposed rule replace an emergency rule currently in effect? No

7) Does this rulemaking contain an automatic repeal date? No

8) Do these proposed amendments contain incorporations by reference? No

9) Are there any other proposed amendments pending on this part? No

10) Statement of statewide policy objectives: This rule has no impact on local governments.

11) Time, place and manner in which interested persons may comment on this proposed rulemaking: Comments on the proposed rule may be submitted in writing for a period of 45 days following publication of this notice to:

Jack Price  
 Department of Conservation  
 524 S. Second Street, Room 430  
 Springfield, IL 62701-1787  
 217/782-1809

12) Initial regulatory flexibility analysis: This rule does not affect small businesses

13) State reason(s) for this rulemaking if it was not included in either of the two most recent regulatory agendas: Included in Regulatory Agendas submitted for period January 1 - June 30, 1995

The full text of the proposed amendments begins on the next page:

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TITLE 17: CONSERVATION  
CHAPTER 1: DEPARTMENT OF CONSERVATION  
SUBCHAPTER b: FISH AND WILDLIFE

## PART 670

## WHITE-TAILED DEER HUNTING BY USE OF BOW AND ARROW

## Section

- 670.10 Statewide Open Seasons and Counties  
670.20 Statewide Deer Permit Requirements  
670.21 Deer Permit Requirements - Landowner/Tenant Permits  
670.30 Statewide Legal Bow and Arrow  
670.40 Statewide Deer Hunting Rules  
670.50 Rejection of Application/Revocation of Permits  
670.55 Reporting Harvest  
670.60 Regulations at Various Department-Owned or -Managed Sites

AUTHORITY: Implementing and authorized by Sections 1.2, 1.3, 1.4, 2.1, 2.2, 2.24, 2.25, 2.26, 2.33, 3.5 and 3.36 of the Wildlife Code [520 ILCS 5/1.2, 1.3, 1.4, 2.1, 2.2, 2.24, 2.25, 2.26, 2.33, 3.5 and 3.36].

SOURCE: Adopted at 5 Ill. Reg. 8888, effective August 25, 1981; codified at 5 Ill. Reg. 10641; emergency amendment at 5 Ill. Reg. 11402, effective October 14, 1981, for a maximum of 150 days; emergency expired at March 13, 1982; amended at 6 Ill. Reg. 10721, effective August 20, 1982; emergency amendment at 6 Ill. Reg. 15581, effective December 14, 1982, for a maximum of 150 days; emergency expired May 13, 1983; amended at 7 Ill. Reg. 10790, effective August 24, 1983; amended at 8 Ill. Reg. 19004, effective September 26, 1984; amended at 9 Ill. Reg. 14317, effective September 9, 1985; amended at 10 Ill. Reg. 16658, effective September 22, 1986; amended at 11 Ill. Reg. 2275, effective January 20, 1987; amended at 12 Ill. Reg. 12042, effective July 11, 1988; amended at 13 Ill. Reg. 12839, effective July 21, 1989; amended at 14 Ill. Reg. 14787, effective September 4, 1990; amended at 14 Ill. Reg. 19859, effective December 3, 1990; amended at 15 Ill. Reg. 10021, effective June 24, 1991; amended at 15 Ill. Reg. 16691, effective October 31, 1991; amended at 16 Ill. Reg. 11116, effective June 30, 1992; amended at 17 Ill. Reg. 286, effective December 28, 1992; amended at 17 Ill. Reg. 13452, effective July 30, 1993; amended at 18 Ill. Reg. 5842, effective April 5, 1994; amended at 19 Ill. Reg. \_\_\_\_\_, effective \_\_\_\_\_.

## Section 670.10 Statewide Open Seasons and Counties

- a) All regulations set forth in Chapter 61, Section 2.26 of the Wildlife Code apply in this rule.  
b) For Cook, DuPage, Kane and Lake counties - October 1 through January 10.  
c) For all other counties - October 1 through January 27; the first Thursday after January 10, closed during the period when deer hunting

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with a firearm is permitted as set out in 17 Ill. Adm. Code 650, except Department of Conservation (Department or DOC) owned or managed sites designated below in Section 670.60 by an asterisk (\*) shall be open to archery deer hunting without regard to firearm deer season; (no firearm deer hunting pursuant to 17 Ill. Adm. Code 650 allowed).

(Source: Amended at 19 Ill. Reg. \_\_\_\_\_, effective \_\_\_\_\_.)

## Section 670.20 Statewide Deer Permit Requirements

- a) Illinois residents - hunters must have a current valid Archery Deer Permit at \$15.00. For each either-sex archery permit and \$25.00 for the either-sex only archery deer permit. Non-residents must purchase an either-sex permit in order to be eligible for an antlerless-only permit. The permit will authorize the holder to hunt on any of the open counties of the State on property where permit applications and other information were received. All archery deer hunters must have a current, valid Illinois archery deer permit. Archery deer permits are available over-the-counter (OTC) from license vendors as combination permits, each consisting of one either-sex permit and one antlerless-only permit. The fee for resident archery combination permits shall be \$25.00; nonresident archery combination permits shall be \$20.00. A single either-sex archery deer permit will be available until September 1 of each year by mail only from the Permit Office. The fee for a resident archery single permit shall be \$15.00; a nonresident archery single permit shall be \$100.00. The permit will authorize the holder to hunt in any of the open counties of the State, on property where permission to hunt has been obtained from the property owner. For the single either-sex or landowner tenant permit applications and other information, write to:

Department of Conservation

Archery Deer Permit Office

524 South Second Street, Room 210

P.O. Box 19227

Springfield, Illinois 62794-9227

- b) Applicants To obtain the single either-sex permit of a landowner/tenant permit, applicants must submit an application to the Permit Office using the official current Archery Deer Permit application form. Applications submitted on forms from previous years will be returned. Applicants must complete all portions of the permit application form. Incomplete applications and fees will be returned. Each applicant must submit a personal check or money order for his individual application. The combination archery deer permits are available from license vendors located throughout the State. Hunters purchasing archery deer permits must supply all necessary applicant



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information to the license vendor in order to properly complete the permit.

- c) Dates of Beginning dates for acceptance of applications for the single either-sex permit will be announced publicly. Archery applications received after September 1 cannot be guaranteed a permit by October 1 will be rejected and the fees returned.

d) Permits are not transferable. Refunds will not be granted.

- e) A three dollar \$3.00 service fee will be charged for replacement permits issued by the Department of Conservation (Department or DOC), except that there will be no charge for permits lost in the mail. The procedures for obtaining a replacement license are detailed in 17 Ill. Adm. Code 2520.50. Monies from this source will be deposited in the Wildlife and Fish Fund.

f) Out-of-state applicants must contact the Department of Conservation Archery Deer Permit Office, 524 S. Second Street, Room 2107, Box 19227, Springfield, Illinois 62794-9227, for a non-resident application and fee information.

- g) All resident applicants are eligible to receive one antlerless-only Archery Deer Permit (\$25.00). Non-residents must purchase an either-sex permit (\$100.00) in order to be eligible for one antlerless-only permit (\$25.00).

h) The maximum number of archery deer permits an applicant can receive is two either-sex and one antlerless-only.

- i) There is no limit to the number of combination archery deer permits that an individual may purchase, but each individual is limited to one of the single either-sex permits per season.

(Source: Amended at 19 Ill. Reg. \_\_\_\_\_, effective \_\_\_\_\_)

## Section 670.21 Deer Permit Requirements - Landowner/Tenant Permits

- a) The immediate family of a landowner or tenant is limited to the spouse, children or parents permanently residing on the same property as the landowner or tenant.

b) A tenant for the purpose of this Part is one who rents 40 acres or more land for commercial agricultural purposes under an agreement with a landowner. Commercial agriculture shall be defined as utilization of land for the raising of hay, grain crops or livestock for profit. Hunting and mineral rights leases are not valid for a tenant permit.

- c) Resident Illinois landowners who own 40 acres or more of land and resident tenants renting or leasing 40 acres or more of commercial agricultural land, and members of their immediate family, may apply for a free combination archery deer permit for their property only. Resident landowners or tenants having been issued a free landowner/tenant either-sex archery permit shall be issued an additional antlerless-only free landowner/tenant archery permit for their property only. Nonresident Illinois landowners (of 40 acres or

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more) are also eligible to apply for an either-sex permit and an antlerless-only combination archery deer permit for their property only. The fee to non-resident Illinois landowners owning 40 acres or more for permits a combination permit for their property only shall be \$50.00 for each either-sex permit and \$25.00 for each antlerless-only permit \$70.00. This deer hunting permit shall be valid on all farm lands owned, leased, or rented by the person to whom it is issued. Qualified landowners/tenants who choose not to receive property-only firearm permits may receive 2 combination archery deer permits for their property only.

- d) If property is owned or rented by more than one person, only one landowner (and his immediate family) or one tenant (and his immediate family) will be issued a permit for every 40 acres of owned or rented land. For example, if 3 persons own 90 acres, only 2 of the landowners and their immediate family may receive deer permits.

e) Shareholders of corporations owning 40 or more acres of land in a county may apply for one either-sex combination permit to hunt the corporation lands only. Only one permit per 40 acres, for a maximum number of 15 permits per county shall be issued based on ownership of lands by corporations. Lands leased to corporations shall not be considered as a basis for a permit for the shareholders of the lessee. Lands held in trust by corporations shall not be considered as a basis for a permit by the shareholders of the trustee. If application is made for a permit based upon lands owned by the corporation, a duly authorized officer of the corporation must sign a notarized statement authorizing the applicant to hunt on the corporate lands for which a permit is being requested. This statement must identify the applicant as a shareholder, identify authorization to hunt and identify that no more than 15 authorizations will be requested per county for the corporation lands. This document must be attached to the application upon submittal to the Permit Office. The shareholder either-sex combination permit shall be free to resident shareholders, and the cost to nonresident shareholders shall be \$50.00. An antlerless-only shareholder permit-free to resident shareholders \$25.00 to nonresident shareholders will be made available if in the best interest of managing the deer herd \$70.00.

- f) The application period for these permits will be publicly announced. Applicants submitting applications for an a landowner or shareholder archery permit after September 1 will not be guaranteed a permit by October 1.

(Source: Amended at 19 Ill. Reg. \_\_\_\_\_, effective \_\_\_\_\_)

## Section 670.40 Statewide Deer Hunting Rules

- a) The bag limit is one deer per legally authorized either-sex, antlered-only or antlerless-only permit. An either-sex permit holder

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is allowed to take a deer with or without antlers. An antlered-only permit holder is allowed to take only a deer having at least one antler of a length of 3 or more inches. An antlerless-only permit holder is allowed to take only a deer without antlers or a deer having antlers less than 3 inches long.

b) Recipients of the Archery Deer Hunting Permit shall record their signature, hunting license number (unless exempt), and physical description on the permit and must carry it on their person while hunting.

c) The leg tag shall be attached and properly sealed immediately upon kill and before the deer is moved, transported or field dressed. No person shall leave any deer that has been killed without properly attaching the leg tag to the deer. ~~The head-antler-tag-and-antler-tag~~

~~must-be-attached-to-the-appropriate-parts-when-the-deer-parts-of-deer~~  
~~is-delivered-to-a-licensed-fur-buyer--tanner--or-taxidermist-for~~  
~~processing.~~ The leg tag must remain attached to the leg of the deer until it is processed, then must remain with the processed deer until it is at the legal residence of the person who legally took or possessed the deer. Persons delivering deer/parts of deer to a taxidermist, furbuyer, or tanner for processing must supply the taxidermist, furbuyer, or tanner with their deer permit number to verify lawful acquisition. In the absence of a permit number, the taxidermist, furbuyer, or tanner may rely on the written certification of the person from whom the deer was received that the specimen was legally taken or obtained.

d) Hunters shall not have in their possession, while in the field during archery deer season, any deer permit issued to another person (Permits are non-transferable).

e) Permits will not be re-issued in cases involving deer taken which are found to be diseased or spoiled due to previous injury. Legal disposal of unfit deer taken shall be the responsibility of the hunter.

## Section 670.50 Rejection of Application/Revocation of Permits

a) In the event that an applicant for one of the permits available from the Permit Office is in violation of one of the following subsections, in addition to other penalties the application shall be held in suspension, and the any application fees shall be deposited, pending a determination by the permit office of whether the violation was knowing. If the permit office determines the violation was knowing, the application shall be rejected and the any fee collected shall be retained by Conservation. The applicant may request a hearing on this decision pursuant to 17 Ill. Adm. Code 2530. Should it be determined that the violation was without the knowledge of the applicant, the permit office will process any one number of applications allowed by administrative rule but will retain the fees for all applications. ~~these monies will be used to fund the Wildlife and Fish Fund.~~

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additional applications rejected and fees returned.

1) Using a hunting rights lease, mineral rights lease or other lease for land which does not evidence a genuine farm tenancy to obtain an archery deer permit;

2) Submitting more applications in the same name or by the same person for an archery deer permit than allowed for in Sections 670-20 and 670-21;

3) Providing false and/or deceptive information on the deer permit application form;

4) Submitting an application when the applicant has a license or permit currently revoked pursuant to Section 3.36 of the Wildlife Code (Ill. Rev. Stat. 1991, ch. 61, par. 3.36) (520 ILCS 5/3.36).

5) ~~Applying for more than two either-sex archery deer permits or one antlerless-only permit.~~

b) In the event that the purchaser of a combination archery deer permit is in violation of one of the following subsections, the permit will be revoked in addition to any other penalties. The applicant may request a hearing on this decision pursuant to 17 Ill. Adm. Code 2530. 1) Providing false and/or deceptive information on the deer permit form.

2) Purchasing an archery deer permit when the applicant has a license or permit currently revoked pursuant to Section 3.36 of the Wildlife Code (520 ILCS 5/3.36).

b) Any violations of the Wildlife Code (17 Ill. Rev. Stat. 1991, ch. 61, par. 3.36) (520 ILCS 5) or administrative rules of the Department (17 Ill. Adm. Code, Chapter 1), in addition to other penalties, may result in revocation of deer hunting permits as per 17 Ill. Adm. Code 2530.

(Source: Amended at 19 Ill. Reg. \_\_\_\_\_, effective \_\_\_\_\_)

## Section 670.60 Regulations at Various Department-Owned or -Managed Sites

a) All the regulations in 17 Ill. Adm. Code 510-1 (General Hunting and trapping) apply in this Section unless this Section is more restrictive.

b) Tree stands that are used for hunting deer must be legibly marked with the owner's name, address, and telephone number when left unattended. These tree stands must comply with restrictions listed in 17 Ill. Adm. Code 510-10(c)(3) and must be portable. Only one tree stand is allowed per deer permit holder.

c) Tree stands may be left unattended during the deer season at those sites listed in the following subsections that are followed by a 17 Statewide regulations as provided for in this Section shall apply except as noted in parentheses for the following areas:

Genee Park State Natural Area



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Campbell Pond Wildlife Management Area (t) (t) (t)  
 Carlyle Lake Wildlife Management Area (t) (t) (t)  
 Engineers managed lands (except Carlyle Lake Wildlife Management Area) in the Subponds Area (t) (t) (t)  
 to and during the regular waterfowl season (t) (t) (t)  
 Champaign Wildlife Management Area (t) (t) (t)  
 State Park Headquarters (t) (t) (t)  
 no hunting in designated Nature Preserve (t) (t) (t)  
 Bog Island Wildlife Management Area (t) (t) (t)  
 Kaskaskia River Fish and Wildlife Area (t) (t) (t)  
 Management Area (t) (t) (t)  
 prior to the regular duck season (t) (t) (t)  
 Kidd Lake State Natural Area (t) (t) (t)  
 Lake Shelbyville Kaskaskia and West Okaw Fish and Wildlife Areas (t) (t) (t)  
 Mississippi River Boats 16, 17, 18, 19, 20, 21, 22, 23, 24, 25, 26, 27, 28, 29, 30, 31, 32, 33, 34, 35, 36, 37, 38, 39, 40, 41, 42, 43, 44, 45, 46, 47, 48, 49, 50, 51, 52, 53, 54, 55, 56, 57, 58, 59, 60, 61, 62, 63, 64, 65, 66, 67, 68, 69, 70, 71, 72, 73, 74, 75, 76, 77, 78, 79, 80, 81, 82, 83, 84, 85, 86, 87, 88, 89, 90, 91, 92, 93, 94, 95, 96, 97, 98, 99, 100, 101, 102, 103, 104, 105, 106, 107, 108, 109, 110, 111, 112, 113, 114, 115, 116, 117, 118, 119, 120, 121, 122, 123, 124, 125, 126, 127, 128, 129, 130, 131, 132, 133, 134, 135, 136, 137, 138, 139, 140, 141, 142, 143, 144, 145, 146, 147, 148, 149, 150, 151, 152, 153, 154, 155, 156, 157, 158, 159, 160, 161, 162, 163, 164, 165, 166, 167, 168, 169, 170, 171, 172, 173, 174, 175, 176, 177, 178, 179, 180, 181, 182, 183, 184, 185, 186, 187, 188, 189, 190, 191, 192, 193, 194, 195, 196, 197, 198, 199, 200, 201, 202, 203, 204, 205, 206, 207, 208, 209, 210, 211, 212, 213, 214, 215, 216, 217, 218, 219, 220, 221, 222, 223, 224, 225, 226, 227, 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DEPARTMENT OF CONSERVATION

NOTICE OF PROPOSED AMENDMENTS

Hotesville--Lake--Conservation--Area--Alexandria--County--Public  
Goose--Hunting--Area--Open--from--October--1--until--25--days--prior--to  
the--opening--of--the--Goose--Zone--Goose--Season--Season--at--the  
close--of--the--goose--season--through--statewide--season  
other--Portions--of--the--Public--Hunting--Area--Open--during--statewide  
season--(1111)

Kinkaid--Lake--Fish--and--Wildlife--Area--(1111)

I-24--Wildlife--Management--Area--(1111)

Johnson--Sax--Park--State--Park--October--1--the--day--before--the  
upland--game--season--and--on--Mondays--and--Tuesdays--during--the--upland  
game--season--(1111)

Public--Golf--Course--Park--(closed--the--is--weekend--Saturday--and  
Sunday--of--October--1)

Madison--River--State--Park--Wildlife--Area--October--15--through  
statewide--season

Marengo--Fish--and--Wildlife--Area--no--hunting--on--Friday  
Saturday--or--Sunday--of--October--(1111)

Marengo--State--Park--Wildlife--Area

Redolph--County--Conservation--Area--(1111)

Red--Hills--State--Park--(1111)

Rice--Lake--Season--one--day--after--the--close--of--the--duck--season  
through--statewide--season

Saint--County--Conservation--Area--(1111)

Saint--Paul--Fish--and--Wildlife--Area--(1111)

Shoof--Lake--State--Park--Road--Wildlife--Management--Area--(1111)

State--Park--Wildlife--Area--no--hunting--on--Mondays--and--Tuesdays  
during--the--upland--game--season--(1111)

State--Park--Wildlife--Area--no--hunting--on--Mondays--and--Tuesdays  
during--the--upland--game--season--(1111)

State--Park--Wildlife--Area--no--hunting--on--Mondays--and--Tuesdays  
during--the--upland--game--season--(1111)

State--Park--Wildlife--Area--no--hunting--on--Mondays--and--Tuesdays  
during--the--upland--game--season--(1111)

DEPARTMENT OF CONSERVATION

NOTICE OF PROPOSED AMENDMENTS

Turkey--Bluffs--Fish--and--Wildlife--Area--(1111)

Union--County--Conservation--Area--Public--Goose--Hunting--Area--Open  
from--October--1--until--25--days--prior--to--the--opening--of--the--Goose  
Zone--Goose--Season--Season--with--Goose--Zone--Goose--Season--Season  
through--statewide--season--(1111)

Washington--County--Conservation--Area--low--deer--hunting--season--(1111)  
Capitol--Under--Center--Management--Area--(1111)  
Square--Lake--Park--(1111)  
Pharmaceutical--and--Public--Hunting--Area--(1111)  
Controlled--Pharmaceutical--Hunting--Season--(1111)

Wayne--Pigeon--State--Reserve--Area--(1111)  
Hill--Adm. Code--(1111)

Woodford--County--Conservation--Area

State--Park--Wildlife--Area--no--hunting--on--Friday--Saturday--or--Sunday--of--October--(1111)  
State--Park--Wildlife--Area--no--hunting--on--Friday--Saturday--or--Sunday--of--October--(1111)  
State--Park--Wildlife--Area--no--hunting--on--Friday--Saturday--or--Sunday--of--October--(1111)  
State--Park--Wildlife--Area--no--hunting--on--Friday--Saturday--or--Sunday--of--October--(1111)  
State--Park--Wildlife--Area--no--hunting--on--Friday--Saturday--or--Sunday--of--October--(1111)

Beaver--Dam--State--Park--(1111)  
Hunting--Area--(1111)  
Hunting--Area--(1111)  
Hunting--Area--(1111)  
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## DEPARTMENT OF CONSERVATION

## NOTICE OF PROPOSED AMENDMENTS

statewide regulations-- Sunday hunting hours are from one-half hour before sunrise to 2:00 p.m. and hunters must check out by 3:00 p.m. the area is to be closed to hunting on Christmas Day. Hunters must check in check-out and report deer harvested at the main park entrance gamehouse. A special late season hunt will be held December 26 through January 1. Statewide regulations as provided in this Part shall apply. Hunters must check in check-out and report deer harvested at the Oak Point Access Area where check-in regulations will be posted.

Shain-Ofakes State Park

Hunters must obtain a free permit from the site office. The permit must be in possession while hunting failure to report harvest by February 15 shall result in loss of hunting privileges at the site for the following year.

Clinton Lake State Recreation Area (except Mascoutin Area and Inner Peninsula)-- deer stands must be marked with site number point number visible from ground level (111)

Regie Creek State ParkFox Ridge State Park (111)Hamilton County Conservation Area (111)Hidden Springs State Forest (111)Lake Shelbyville Eagle Creek Wildlife Management AreaMernett Conservation Area (111)

Newton Lake State Park and Wildlife Area-- statewide regulations apply. Check deer at headquarters, return permit to site office.

\* Ramsey Lake State Park (111)

\* Saw-Bale Lake Conservation Area (111)

\* Stephen A. Forbes State Park (111)

Hunters may obtain free permits from site office. Permit must be returned and delivered to headquarters by February 15. Failure to return permit shall result in loss of hunting privileges the next season.

Stockton State Park (111)Middlesex State and Wildlife Area (111)

Hunters shall obtain a free permit from site office. Permit must be returned and delivered to headquarters by February 15. Failure to return permit shall result in loss of hunting privileges the next season.

## DEPARTMENT OF CONSERVATION

## NOTICE OF PROPOSED AMENDMENTS

at-site procedures for application and drawing shall be announced by news release. Permit holders are required to return their permits and report harvest within ten days after the close of statewide bow season.

Walnut Point Fish and Wildlife Area

b) Only one tree stand is allowed per deer permit holder. Tree stands must comply with restrictions listed in 17 Ill. Adm. Code 510.10(c)(3) and must be portable. Tree stands must be removed at the end of each day with the exception that tree stands may be left unattended from September 15 - January 31 at those sites listed in the following subsections that are followed by a (1).

c) Check-in, check-out, and reporting of harvest is required at those sites listed in the following subsections that are followed by a (2).

d) Where standby hunters are used to fill quotas, a drawing will be held at sites indicated by a (3).

e) Only antlerless deer or antlered deer having at least four points on one side may be harvested at those sites listed in the following subsections that are followed by a (4).

f) Only antlerless deer or antlered deer having at least five points on one side may be harvested at those sites listed in the following subsections that are followed by a (5).

g) Statewide regulations shall apply at the following sites:

Argyle Lake State Recreation Area (2)

\* Anderson Lake Fish and Wildlife Area (2)

\* Banner Marsh Fish and Wildlife Area (2)

\* Big Bend State Fish and Wildlife Area (1)(2)

Big River State Forest (2)Cache River State Natural Area (1)(2)Carlyle Lake Lands and Waters (Corps of Engineers managed lands)

Carlyle Lake Wildlife Management Area (except subimpoundment area is closed seven days prior to and during the regular waterfowl season).

Castle Rock State Park (1)(2)Crawford County Conservation Area (1)(2)Dog Island Wildlife Management Area (1)(2)

\* Eldon Hazlet State Park (2)



## DEPARTMENT OF CONSERVATION

## NOTICE OF PROPOSED AMENDMENTS

Ferne Clyffe State Park (1)(2)

Fort de Chartres State Historic Site (1)(2)

Fort Massac State Park (1)(2)

Franklin Creek State Park (2)

Giant City State Park (1)(2)

Heidecke State Fish and Wildlife Area (2)(3)

Horseshoe Lake Conservation Area - Alexander County (Controlled Goose Hunting Area - open from October 1 until 25 days prior to the opening of the Quota Zone goose season; reopens with the close of the Quota Zone goose season through statewide closing; remainder of the Public Hunting Area open during statewide season) (1)(2)

I-24 Wildlife Management Area (1)(2)

Jubilee College State Park (2)(4)

Kaskaskia River Fish and Wildlife Area (1)(2), except south of Highway 154 and north of Highway 13)

Kidd Lake State Natural Area (1)

Kinkaid Lake Fish and Wildlife Area (1)(2)

Lowden-Miller State Forest (1)(2)(4)

Mackinaw River Fish and Wildlife Area (1)(2)

Marseilles Wildlife Area (closed Friday, Saturday, and Sunday in October) (1)(2)

Marshall Fish and Wildlife Area (2)

Mississippi Fish and Waterfowl Management Area - Pools 25 and 26

Mississippi River Pool 16 (1)

Mississippi River Pools 17, 18 (1)

Mississippi River Pools 21, 22, 24

Mt. Vernon Propagation Center (1)(2)

## DEPARTMENT OF CONSERVATION

## NOTICE OF PROPOSED AMENDMENTS

Oakford Conservation Area

Panther Creek Conservation Area (1)(2)

\* Peabody River King State Fish and Wildlife Area (East and North subunits close November 1) (1)(2)

Pere Marquette State Park (area east of Graham Hollow Road) (2)

Pike County Conservation Area (2)

Pyramid State Park (1)(2)

\* Randolph County Conservation Area (1)(2)

\* Red Hills State Park (1)(2)

Rend Lake State Fish and Wildlife Area

Rice Lake Fish and Wildlife Area (2)

Saline County Fish and Wildlife Area (1)(2)

\* Sam Parr State Park (1)(2)

Sangamon County Conservation Area

Sanganois State Wildlife Area (1)

Shabbona Lake State Park (2)

Shelbyville Wildlife Management Area (1)

Siloam Springs State Park (1)(2)(4)

Silver Springs State Park (2)

Tapley Woods State Natural Area (1)(2)

Trail of Tears State Forest (1)(2)

Turkey Bluffs Fish and Wildlife Area (1)(2)

Union County Conservation Area (Controlled Goose Hunting Area - open from October 1 until 25 days prior to the opening of the Quota Zone goose season; reopens with the close of the Quota Zone goose season through statewide closing) (1)(2)

## DEPARTMENT OF CONSERVATION

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Walnut Point Fish and Wildlife Area (1)

- \* - Washington County Conservation Area (deer bowhunters must wear a cap and upper outer garment with at least 400 square inches of solid blaze orange between 9:00 a.m. and 3:00 p.m. on days when upland game hunting is allowed during the site's controlled hunting season) (1)(2)

Weinberg-King State Park (2)Wildcat Hollow State Forest (1)

- h) Statewide regulations shall apply at the following sites except that hunter quotas shall be filled by mail-in drawing:

Beaver Dam State ParkPere Marquette State Park (hunting in designated camp areas only; season begins the first weekday after camps close)Union County Conservation Area (designated areas only, October 27-29, 1995)

- i) State regulations shall apply except that hunters must obtain a free permit from the site office. This permit must be in possession while hunting and must be returned, and harvest reported, to the address indicated on the card before February 15. Failure to return the permit shall result in loss of hunting privileges at that site for the following year.

Chauncey Marsh State Natural Area (permit obtained at Red Hills State Park headquarters) (1)Clinton Lake State Recreation Area (except Inner Peninsula and Mascoutin areas) (1)Des Plaines Conservation Area (closed to archery deer hunting during the site's upland game hunting season) (2)Des Plaines Game Propagation Center (2)Eagle Creek State ParkFox Ridge State Park 1)Hamilton County Conservation Area (1)Hidden Springs State Forest (1)

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Joliet Army Ammunition Plant (an additional \$15 fee will be assessed upon registration) (2)

Kankakee River State Park (deer bowhunters must wear a cap and upper outer garment with at least 400 square inches of solid blaze orange between 9:00 a.m. and 3:00 p.m. on days when upland game hunting is allowed during the site's controlled hunting season) (2)

Kickapoo State Park (1)Maitino State Fish and Wildlife Area (1)Mermet Lake Conservation Area (1)(2)Middle Fork Fish and Wildlife Area (1)Mississippi Palisades State Park (November 1 through December 31) (1)Newton Lake Fish and Wildlife Area (check deer at site office)Pekin Lake Fish and Wildlife Area (1)Ramsey Lake State Park (1)Sam Dale Lake Conservation Area (1)Sand Ridge State Forest (1)Sangchris Lake State Park (1)(5)Site M (1)(4)Snake Den Hollow Fish and Wildlife Area (October 1 through start of the central zone goose season)Spring Lake Fish and Wildlife Area (1)Stephen A. Forbes State Park (1)

Ten Mile Creek Fish and Wildlife Area (areas designated as refuge are closed to all access during Canada goose season only) (1): Belle River Unit only (4)

Witkowsky State Wildlife Area (1)

- j) Statewide regulations shall apply except that no hunting is permitted

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Wednesday through Sunday of the site's permit pheasant season.

Chain O'Lakes State Park (season opens Monday prior to opening of permit pheasant hunting season and closes Tuesday following the close of the permit pheasant hunting season. Tuesday hunting hours close at 2:00 p.m. and hunters must check out by 3:00 p.m. Season reopens on December 26 till close of regular season.

Green River State Wildlife Area (1)(2)

Iroquois County Conservation Area (2)

Johnson Sauk Trail State Park

Moraine View State Park (1)

Wayne Fitzgerald State Recreation Area (no bowhunting during controlled hunts as posted at the site) (1)(2)

k) Statewide regulations shall apply at the following sites except that hunter quotas are filled by mail-in drawing. Hunters must harvest one doe before being allowed to take an antlered deer.

Clinton Lake (Inner Peninsula and Mascoutin areas only)

(Source: Amended at 19 Ill. Reg. \_\_\_\_\_, effective \_\_\_\_\_)

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1) Heading of the Part: White-Tailed Deer Hunting by Use of Firearms

2) Code Citation: 17 Ill. Adm. Code 650

3) Section Numbers:  
650.10 Amendments  
650.20 Amendments  
650.21 Amendments  
650.22 Amendments  
650.23 Amendments  
650.40 Amendments  
650.50 Amendments  
650.60 Amendments  
650.65 Amendments  
650.67 New Section

4) Statutory Authority: Implementing and authorized by Sections 1.3, 1.4, 1.13, 2.24, 2.25, 2.26 and 3.36 of the Wildlife Code (520 ILCS 5/1.3, 1.4, 1.13, 2.24, 2.25, 2.26 and 3.36).

5) A Complete Description of the Subjects and Issues Involved: Amendments to this Part will allow antlerless-only permits to be issued during the last issuance period in certain counties without the prior requirement that they be "bonus" permits (i.e., the applicant already possesses an either-sex permit); discontinues the head and hide tag to conform to the archery rule (17 Ill. Adm. Code 670); and site specific rules are being standardized to simplify the rule.

6) Will this Proposed Rule Replace an Emergency Rule Currently in Effect? No

7) Does this Rulemaking Contain an Automatic Repeal Date? No

8) Do these Proposed Amendments Contain Incorporations by Reference? No

9) Are there any Other Proposed Amendments Pending on this Part? No

10) Statement of Statewide Policy Objectives: This rule has no impact on local governments.

11) Time, Place and Manner in which Interested Persons may Comment on this Proposed Rulemaking: Comments on the proposed rule may be submitted in writing for a period of 45 days following publication of this notice to:

Jack Price  
Department of Conservation  
524 S. Second Street, Room 430  
Springfield, IL 62701-1787  
(217) 782-1809



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12) Initial Regulatory Flexibility Analysis: This rule does not affect small businesses

13) State Reason(s) for this Rulemaking if it was not included in Either of the Two Most Recent Regulatory Agendas: Included in the Regulatory Agendas submitted for the period January 1 - June 30, 1995

The full text of the proposed amendments begins on the next page.

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TITLE 17: CONSERVATION  
CHAPTER I: DEPARTMENT OF CONSERVATION  
SUBCHAPTER c: FISH AND WILDLIFE

## PART 650

## WHITE-TAILED DEER HUNTING BY USE OF FIREARMS

Section	
650.20	Statewide Deer Permit Requirements
650.21	Deer Permit Requirements - Landowner Tenant Permits
650.22	Deer Permit Requirements - Special Hunts
650.23	Deer Permit Requirements - Group Hunt
650.30	Statewide Firearms Requirements
650.40	Statewide Deer Hunting Rules
650.50	Rejection of Application/Revocation of Permits
650.60	Regulations at Various Department-Owned or -Managed Sites
650.65	Youth Hunt
650.67	Special Hunts for Disabled Hunters
650.70	Special Extended Season Firearm Deer Hunt (Repealed)

**AUTHORITY:** Implementing and authorized by Sections 1.3, 1.4, 1.13, 2.21, 2.25, 2.26 and 3.36 of the Wildlife Code [520 ILCS 5/1.3, 1.4, 1.13, 2.24, 2.25, 2.26 and 3.36].

**SOURCE:** Adopted at 5 Ill. Reg. 9771, effective September 17, 1981; codified 5 Ill. Reg. 10640; amended at 6 Ill. Reg. 10730, effective August 20, 1982; amended at 7 Ill. Reg. 10798, effective August 24, 1983; amended at 8 Ill. Reg. 21602, effective October 23, 1984; amended at 9 Ill. Reg. 16213, effective October 10, 1985; emergency amendments at 9 Ill. Reg. 20922, effective December 18, 1985, for a maximum of 150 days; amended at 10 Ill. Reg. 4223, effective February 25, 1986; amended at 10 Ill. Reg. 16665, effective September 22, 1986; amended at 11 Ill. Reg. 3044, effective February 3, 1987; amended at 11 Ill. Reg. 9564, effective May 5, 1987; amended at 12 Ill. Reg. 8003, effective April 25, 1988; amended at 12 Ill. Reg. 12055, effective July 11, 1988; amended at 13 Ill. Reg. 12853, effective July 21, 1989; amended at 14 Ill. Reg. 12130, effective July 20, 1990; amended at 14 Ill. Reg. 19869, effective December 3, 1990; amended at 15 Ill. Reg. 10038, effective June 24, 1991; emergency amendment at 15 Ill. Reg. 15790, effective October 22, 1991, for a maximum of 150 days; emergency expired March 21, 1992; amended at 16 Ill. Reg. 11131, effective June 30, 1992; amended at 17 Ill. Reg. 13468, effective July 30, 1993; amended at 18 Ill. Reg. 5851, effective April 5, 1994; amended at 18 Ill. Reg. 13431, effective August 23, 1994; amended at 19 Ill. Reg. \_\_\_\_\_, effective \_\_\_\_\_.

## Section 650.10 Statewide Season and Permit Quotas

- a) Season: 12:01 a.m. on Friday of the 3-day (Friday, Saturday and Sunday) weekend immediately before Thanksgiving to 6:00 p.m. on Sunday

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of the 3-day weekend before Thanksgiving, and 12:01 a.m. on Thursday of the first 4-day (Thursday, Friday, Saturday and Sunday) weekend following Thanksgiving to 6:00 p.m. on Sunday of the first 4-day weekend following Thanksgiving. Full season permits shall be for all days. Second season permits shall be for the December dates only valid for the last four days of the season only. Hunting hours are one-half hour before sunrise to sunset.

- b) Permit quotas shall be set by the Department of Conservation on a county or special hunt area basis. Cook, DuPage, Lake and Kane counties are closed to firearm deer hunting.

(Source: Amended at 19 Ill. Reg. \_\_\_\_\_, effective \_\_\_\_\_)

## Section 650.20 Statewide Deer Permit Requirements

- a) Illinois resident hunters must have a current, valid "Firearm Deer Permit" (\$15.00). Deer permit fees for non-resident firearm deer hunters shall be \$100.00 for each eligible firearm permit and \$25.00 for each antlerless-only permit. A permit is issued for one county or special hunt area and is valid only in the county or special hunt area stated on the permit. Only applicants who receive an eligible permit in a county or special hunt area are eligible for an antlerless-only permit for that county or special hunt area, except in counties that are specially designated for more intensive removal of does in a given year. These counties will be identified prior to the second random daily drawing, and a limited number of antlerless-only permits will be made available regardless of whether applicants already possess an either-sex permit. For permit applications and other information write to:

Department of Conservation  
(Firearm or Landowner/Tenant or Non-Resident)  
Deer Permit Office  
524 South Second Street, Room 210  
P.O. Box 1927  
Springfield, Illinois 62794-9227

- b) Applications from residents will be accepted through April 30, the last weekday in April of the current year. Applications received after April 30 the last weekday in April will not be included in the lottery. Permits will be allocated in a computerized random drawing in which only one choice of hunt area or county will be considered. Permits will be issued as either sex, antlerless only, or antlered only. A maximum of one eligible and one antlerless-only permit shall be issued per person. Applicants for free or paid landowner/tenant permits are not eligible to participate in the lottery or the first random daily drawing period. Landowners who receive permits in the lottery or first random daily drawing period are not eligible for landowner permits.

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- c) Applicants must check the second-season box if they agree to accept a second-season permit upon being rejected for a full-season permit. If the applicant checks the second-season box and is rejected, the lottery the applicant will receive preference in next year's lottery.
- d) Applicants must check the antlerless-only box and enclose an additional \$15.00 (\$25.00 for non-residents) if they want to apply for an additional antlerless-only permit. Antlerless-only permits will be issued until the antlerless-only quota is filled for a given county or special hunt area.
- e) Permits for counties and special hunt areas with filled quotas after the lottery will be allocated in a Random Daily Drawing procedure. Applications for Random Daily Drawing will be accepted beginning August 1 and ending August 12 on the tenth weekday in August of the current year. Applicants may also apply for remaining antlerless-only permits by checking the antlerless-only box and enclosing an additional \$15.00. Applications received prior to August 1 will be processed in the August 1 first daily drawing. A list of unfilled counties and special hunt areas will be announced prior to the August application dates. Applicants must apply on a current year Firearm Deer Permit application form. All applications for the Random Daily Drawing will be processed individually. This application period is open only to those applicants who were not previously issued firearm permits for the current hunting season. A maximum of one eligible and one antlerless-only permit shall be issued per person.
- f) Those applicants who have already received a firearm permit and did not check the antlerless-only box may apply for an antlerless-only permit for the county and season specified on their eligible permit beginning August 29. Applicants shall complete an application form and provide a photocopy of their eligible permit and enclose a check for \$15.00 to \$25.00 for non-residents.
- g) In-person and mail-in applications will receive equal treatment in the drawings. For the Random Daily Drawing, applications received one day will not be processed until all applications received for that day are mixed. All applications received on a specific day will be processed before processing applications received for a subsequent day.
- h) Applicants must complete all portions of the current year permit application form. Incomplete or incorrect applications will be returned along with the applicant's permit fee for correction or completion if received in this office prior to April 30, the last weekday in April of the current year. No more than 6 single applications per envelope will be accepted. Each applicant must submit a separate personal check or money order. Separate envelopes must be used to send permit applications to the Deer Permit Office for firearm, archery, and free or paid landowner/tenant permits.
- i) Applications for non-resident firearm permits will be accepted beginning August 1 and will be included with the residents in the Random Daily Drawing. Applications received prior to August 1 will be

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processed in the ~~August-1~~ first daily drawing.

~~1) There will be an application period which starts August-29--and--ends November--7 September 1 and ends the fifth weekday in November, during which anyone (regardless of any other permit they may have) can apply for firearm deer permits left over from the county and special hunt area quotas. During the application period, the permits shall be issued in a random daily drawing. Applicants can apply for one or more permits during this application period. Full-season antlerless-only permits shall only be issued to successful applicants that have full-season eligible permits in the county applied for. Second-season antlerless-only permits shall only be issued to successful applicants that have either full-season or second-season eligible permits in the county applied for. Applicants submitting application after October 24 cannot be guaranteed a permit by the start of the first deer hunting season. Applicants must print "August--29 "September 1-Multiple Permits" on the outside of the envelope and mark the "August--29 "September 1-Multiple Permits" box on the firearm deer permit application.~~

~~2) In order to be eligible for lottery preference, the second-season box must have been checked on the application form of unsuccessful applicants when they were rejected. Beginning in 1995, hunter preference in obtaining a permit will be given to unsuccessful lottery applicants from the previous year who did not receive an either-sex permit due to the counties of their choice being full or to applicants that received, in the previous year, a second season eligible permit in the lottery only. Preference will not be granted to applicants who received a full-season either-sex permit but who did not receive an antlerless-only permit. Persons with lottery preference will have first chance at receiving available either-sex permits. The following criteria must be met to obtain a preference in the permit lottery:~~

- ~~1) The applicant must apply using the official agency application.~~
- ~~2) The applicant must be a resident of the state, be eligible to receive a Firearm Deer Permit, and not had deer hunting privileges revoked pursuant to Section 650.50.~~
- ~~3) The applicant must apply for the same county or choice which he/she listed on the previous year's application. Preference will not be granted for special hunt areas.~~

~~4) Applications may be accepted at the counter window of the permit office; however, permits will be mailed.~~

~~5) Permits are not transferable. Refunds will not be granted, unless the Department of Conservation (Department) has erroneously issued the permit after the quota has been depleted or where the applicant was unsuccessful in obtaining a permit.~~

~~6) A three dollar (\$3.00) service fee will be charged for replacement permits issued by the Department, except when permits are lost in the mail, then there will be no charge. Monies derived from this source will be deposited in the Wildlife and Fish Fund.~~

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(Source: Amended at 19 Ill. Reg. \_\_\_\_\_, effective \_\_\_\_\_)

## Section 650.21 Deer Permit Requirements - Landowner/Tenant Permits

- a) The immediate family of a landowner or tenant is defined as, and limited to, the spouse, children, or parents permanently residing on the same property as the landowner or tenant.
- b) A tenant for the purpose of this Part is one who rents 40 acres or more land for commercial agricultural purposes under an agreement with a landowner. Commercial agriculture shall be defined as utilization of land for the raising of hay, grain crops or livestock for profit.
- c) Resident and nonresident Illinois landowners who own 40 acres or more of land, and resident tenants leasing or renting 40 acres or more of commercial agricultural lands may apply for a county-wide paid landowner either-sex permit to hunt in the county where the land is located. Members of the immediate family of the landowner or tenant are also eligible to apply for a county-wide paid landowner Firearm Deer permit. Incomplete applications will be returned. The fee for a county-wide either-sex paid landowner deer permit shall be \$15.00 for residents and \$100.00 for nonresidents. These applications will not be subject to the public drawing or the Random Daily Drawing.
- d) Resident Illinois landowners who own 40 acres or more of land and resident tenants renting or leasing 40 acres or more of commercial agricultural land, and members of their immediate family, may apply for a free either-sex permit for their property only in counties open for firearm deer hunting. Recipients of the free either-sex permit will also be given a free antlerless-only permit for their property only. Nonresident Illinois landowners (of 40 acres or more land) are also eligible to apply for one either-sex permit and one antlerless-only permit for their property only. The fee to nonresident Illinois landowners (of 40 acres or more land) for permits for their property only shall be \$50.00 for the either-sex permit and \$25.00 for the antlerless-only permit. These applications will not be subject to the permit lottery described above or the Random Daily Drawing. This deer hunting permit shall be valid on all farmlands which the person to whom it is issued owns, leases or rents in counties open for firearm deer hunting.
- e) Date of acceptance of landowner/tenant property-only permit applications will be publicly announced. Applications for county-wide paid permits must be submitted by April-30 the last weekday in April. Landowners and resident tenants are not required to participate in the public drawing for permits.
- f) Proof of ownership for all landowner or tenant applications must be provided by one of the following methods:
  - 1) Submittal of a copy of property deed;
  - 2) Submittal of a copy of contract for deed;
  - 3) Submittal of a copy of a tax statement for the property (upon





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be issued as antlerless-only without the normal bonus requirement. Standby hunting will be allowed if additional permits are available at the site)

- 4) Joliet Army Ammunition Plant (Will County)
- 5) Joliet Army Training Area (Will County)
- 6) Lake Shelbyville Project Lands (Moultrie County)
- 7) Lake Shelbyville Project Lands (Shelby County)
- 8) Savanna Army Depot (Jo Daviess County)

- b) Each applicant must enclose a separate fee (check or money order) payable to the Department of Conservation, or the application will be RETURNED. Applicants should not send cash with their applications. The Department will not be responsible for cash sent through the mail.

(Source: Amended at 19 Ill. Reg. \_\_\_\_\_, effective \_\_\_\_\_)

## Section 650.23 Deer Permit Requirements - Group Hunt

- a) Up to six individuals may apply to hunt as a group. If applicants are applying in a group, all applications for the group must be sent to the Department in the same envelope. All applications for the group will be processed together only if they are received in the same envelope. Any applications indicating participation in a group that are not received in the same envelope will be processed separately.

- b) Each individual must sign his or her own application.

- c) Applicant must enclose a separate check or money order for the appropriate amount for each application or the applications will be returned.

- d) In order to receive preference for the group, all members must have preference for the same county choice. If any member does not have preference for the group's county or special hunt area choice, the entire group will not receive preference. The group leader's hunter number is the number identified in the hunter number field on the group leader's application mailer. If the application mailer is lost, the applicant should contact the permit office for the leader number. Applicants applying as a group will be rejected if they do not list the same county or special hunt area choice, complete the group leader information listing the identical group leader, and complete the second-season option box identically.

(Source: Amended at 19 Ill. Reg. \_\_\_\_\_, effective \_\_\_\_\_)

## Section 650.40 Statewide Deer Hunting Rules

- a) The bag limit is one deer per legally authorized eligible, antlered-only or antlerless-only permit. An eligible permit holder is allowed to take a deer with or without antlers. An antlered-only

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permit holder is allowed to take only a deer having at least one antler of a length of 3 or more inches. An antlerless only permit holder is allowed to take only a deer without antlers or a deer having antlers less than 3 inches long.

- b) Recipients of the Firearm Deer Hunting Permit shall record their signature, Firearm Owner's Identification number (unless exempt), hunting license number (unless exempt) and physical description on the permit and must carry it on their person while hunting.

- c) The leg tag shall be attached and properly sealed immediately upon kill and before the deer is moved, transported or field dressed. No person shall leave any deer that has been killed without properly attaching the leg tag to the deer. The head, antler, tag and hide tag must be attached to the appropriate parts when the deer parts of deer are delivered to a licensed fur buyer, tanner or taxidermist for processing. The leg tag must remain attached to the leg of the deer until it is processed, then must remain with the processed deer until it is at the legal residence of the person who legally took or possessed the deer. Deer shall be checked in by the hunter in person by 8:00 p.m., the same day it is killed; either at the county check station or the nearest check station to the kill site. Failure to follow this Section constitutes illegal possession of deer. Site specific reporting requirements must be followed in addition to this Section. Persons delivering deer/parts of deer to a taxidermist, furbuyer, or tanner for processing must supply the taxidermist, furbuyer, or tanner with their deer permit number to verify lawful acquisition. In the absence of a permit number, the taxidermist, furbuyer, or tanner may rely on the written certification of the person from whom the deer was received that the specimen was legally taken or obtained.

- d) Hunters shall not have in their possession, while in the field during firearm deer season, any deer permit issued to another person (permits are non-transferable).

- e) Permits will not be re-issued in cases involving deer taken which are found to be diseased or spoiled due to previous injury. Legal disposal of unfit deer taken shall be the responsibility of the hunter.

(Source: Amended at 19 Ill. Reg. \_\_\_\_\_, effective \_\_\_\_\_)

## Section 650.50 Rejection of Application/Revocation of Permits

- a) In the event that an applicant is in violation of one of the following paragraphs, the application shall be held in suspension, and the application fees shall be deposited, pending a determination by the permit office of whether or not the violation was knowing. If the permit office determines the violation was knowing, the application shall be rejected and the fee shall be retained by Conservation. The











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permits--Hunters-Bouglas-County-Permit-must-be-used-to-tag-harvested deer--Hunters-must-report-harvest-at-the-state-office--immediately after-the-daily-hunt-but-in-any-case-not-later-than 7:00 p.m.

Waune Point-Fish-and-Wildlife Area

- st Statewide-regulations-shall-apply--Hunting-is-open-for-the-second firearm deer season only--Hunters-must-possess-a valid permit-for either Adams-or-Brown-county--Hunters-will-be-eligible-to-obtain-in drawing held-at-the-park-office--All-hunters-are-eligible-to-sign-in and-sign-out-at-the-office-before-and-after-the-daily-hunt--Hunting will-be-allowed-in-designated-areas-only--Only-antlerless-deer-and antlered-deer-having-at-least-4-points-on-one-side-may-be-harvested.

Stream-Springs-State-Park

- st Statewide-regulations-shall-apply-except-hat-hunting-is-allowed-by daily-state-permits-only--Daily-permits-will-be-allocated-by-a-mail-in drawing held-at-the-Regional-office-on-October-19--Only-Brown-county who hold-a valid Lake-Saboby-the-prospect-bands-Sheboy-County-Permit-are eligible-to-apply--Only-one-permit-per-person-may-be-allocated--Buplicate-applications-will-be-rejected-and-the-hunter-will-forfeit rights-to-obtain-a-state-permit--Hunters-must-possess-a valid permit-to hunt back-pack-white-hunting-and-deposit-the-back-pack-and-harvest-report at-the-state-office-at-the-end-of-the-daily-hunt.

Wolf-Creek-State-Park

- st Statewide-regulations-shall-apply--Hunters-must-have-a special state-forest-entrance-permit--No-sports-hunter-quota-limits--Season deer-and-antlerless-and-antlered-hunter-quota-limits-for-the-state specific-permits-will-be-publicly-announced.

Rock-Gut-State-Park

- st Statewide-regulations-shall-apply-except-hunting-is-allowed-by-permit only--first-and-second-season-specific-site-permits-will-be allocated-by-mail-in-drawing-held-at-the-state-office--The registration-procedure-hunter-quota-and-date-for-the-drawing-will-be announced-by-prior-news-release--All-individuals-must-possess-a valid-passport-County-Pitcam-Deer-Permit--Scouting-will-be-allowed daily-10:00 a.m.-until 2:00 p.m.-in-all-hunter-units--beginning-the day-after-Easter-Day--No-scouting-will-be-allowed-during-the-Pitcam Deer-Season--All-hunters-must-check-in-and-obtain-a-check-permit-9:30 a.m.-and-check-out-prior-to-leaving-the-area--returning-check-permit-and reporting their kill-by 5:30 p.m.--All-deer-taken-will-be-tagged-with the-hunter's-Brown-County-Pitcam-Deer-Permit--No-Ants-will-be allowed--Hunt-access-will-be-by-private-partying-in-regulated-areas only-only--All-hunters-are-eligible-to-advance-from-the-check-permit-only--Voting-at-the-state-regulations-will-be-permitted-in-the-event-of-a tie-hunting-privileges-for-the-advance-of-the-team-deer-season--the state-will-be-eligible-to-advance--Kelp-Stream-Deer-hunter-cutting the-state-deer-season.

Newton-Lake-Park-and-Wildlife-Area

- st Statewide-regulations-shall-apply--Hunters-are-eligible-to-hunt-the deer-season-at-the-park-office--Hunters-are-eligible-to-hunt-the

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maximum-quota--of-hunters-register-by 5:30 a.m.-a public-drawing-will be-conducted--Hunters-must-check-out-and-report-their-harvest immediately-after-the-daily-hunt--Hunters-must-pick-up-an-information packet-before-going-afeld-Hunting-will-only-be-allowed-north-of-the black-top-road.

Norfolk-Conservation-Area-(fitt)

- st Statewide-regulations-shall-apply-except-hunting-is-by-special-permit only--obtained-during-the-statewide-drawing-for-the-Deer-Antler-Amputation-Plant-(fAAPT)--those-receiving-permits-must-register-by November-1--with-the-Bureau-Wildlife-Manager's-Office-and-will-be randomly-assigned-to-hunting-locations--Hunters-will-be-issued-state hunting-permits-which-must-be-displayed-while-hunting-at-white-notified-of-any-other-procedures--After-opening-day-hunters-will-be allowed-to-move-as-space-permits--Hunters-are-eligible-to-hunt-within 50-feet-of-designated-locations--There-will-be-an-additional-500 site-hunting-fee-for-hunting-at-the-fAAPT--All-hunters-must-check-in and-out-daily-at-the-site-check-station-and-report-harvest.

Older-Arsenal-Amputation-Plant-(Witt-Sonny)

- st Statewide-regulations-shall-apply-except-that-only-antlerless-deer-or antlered-deer-having-at-least-4-points-on-one-side-may-be-taken--Bait-Mile-Creek-Fish-and-Wildlife-Management-Area--Belle-Rive-Bait-Mile-permit-regulated-areas-designated-as-Rifing-are-closed to-all-access-during-Canada-Goose-Season-only--Permits-must-be returned-by-February-15-to-Bureau-Wildlife-Manager-200-Box 337-Older-ib-62450-(fitt)

- b) Only one tree stand is allowed per deer permit holder. These tree stands must comply with restrictions listed in 17 Ill. Adm. Code 510.10(c)(3) and must be portable. Tree stands must be removed at the end of each day with the exception that they may be left unattended from September 15 - January 31 at those sites listed in the following subsections that are followed by a (1).

- c) Check-in, check-out, and reporting of harvest is required at those sites listed in the following subsections that are followed by a (2).

- d) Only antlerless deer or antlered deer having at least four points on one side may be harvested at those sites listed in the following subsections that are followed by a (3).

- e) Only antlerless deer or antlered deer having at least five points on one side may be harvested at those sites listed in the following subsections that are followed by a (4).

- f) Statewide regulations shall apply at the following sites:

Cache River State Natural Area (1) (2)

Carlyle Lake Lands and Waters (Corps of Engineers managed lands)

Carlyle Lake Wildlife Management Area (except subimpoundment area)



## DEPARTMENT OF CONSERVATION

## NOTICE OF PROPOSED AMENDMENTS

Chauncey Marsh (1) (2)

Crawford County Conservation Area (1) (2)

Dog Island Wildlife Management Area (1) (2)

Ferne Clyffe State Park (1) (2)

Fort de Chartres State Historic Site (muzzleloading rifles only) (1) (2)

Giant City State Park (1) (2)

Hamilton County Conservation Area (1) (2)

Horseshoe Lake Conservation Area - Alexander County (all portions of the Public Hunting Area except the Controlled Goose Hunting Area) (1) (2)

I-24 Wildlife Management Area (1) (2)

Kaskaskia River Fish and Wildlife Area (Doza Creek Waterfowl Management Area closed during duck season) (2, except south of Highway 154 and north of Highway 13) t+1

Kidd Lake State Natural Area (1)

Kinkaid Lake Fish and Wildlife Area (1) (2)

Mermet Lake Conservation Area (1) (2)

Mississippi Fish and Waterfowl Management Area - Pools 25 and 26

Mississippi River Pool 16 (1)

Mississippi River Pools 17, 18 (1)

Mississippi River Pools 21, 22, 24 (1)

Newton Lake Fish and Wildlife Area (2)

Oakford Conservation Area (1)

Panther Creek Conservation Area (1) (2)

Pere Marquette State Park (2)

Pyramid State Park (1) (2)

## DEPARTMENT OF CONSERVATION

## NOTICE OF PROPOSED AMENDMENTS

Rend Lake State Fish and Wildlife Area

Saline County Fish and Wildlife Area (1) (2)

Sangamon County Conservation Area

Sanganois State Wildlife Area (1)

Southern Illinois University - Indian Creek Management Unit (1) (2)

Ten Mile Creek Fish and Wildlife Area (1); Belle River Unit only (3)

Trail of Tears State Forest (1) (2)

Turkey Bluffs Fish and Wildlife Area (1) (2)

Union County Conservation Area (1) (2)

Weinberg-King State Park (2)

Wildcat Hollow State Forest (1)

g) Statewide regulations shall apply at the following sites by special permit allocated through the regular statewide drawing. Season dates that differ from the statewide dates are in parentheses. Sites that offer standby hunting are followed by a (5). At sites offering standby hunting, permit holders must register at the check station by 5:00 a.m. each day of the hunt. Unvalidated permits are void after 5:00 a.m. Vacancies each day will be filled by a drawing held at 5:00 a.m. Vacancies may be filled by any person holding a valid hunting license, Habitat Stamp, and Firearm Owner Identification Card, unless exempt. Standby hunters will be issued a one-day site-specific deer permit at the check station, and charged a permit fee of \$5.00. All hunters must check out and report harvest.

Argyle Lake Recreation Area (5)

Big River State Forest (5)

Castle Rock State Park (1) (2) (5)

Des Plaines Conservation Area (first season only) (2) (5)

Fox Ridge State Park

Green River State Wildlife Area (first season only) (1) (2) (5)

## DEPARTMENT OF CONSERVATION

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Heidecke State Fish and Wildlife Area (2) (3) (5)

Hidden Springs State Forest

Horseshoe Lake Conservation Area - Alexander County (Refuge and Public Hunting Area, October 28, 1995)

Iroquois County Conservation Area-Hooper Branch (first season only) (2) (5)

Iroquois County Conservation Area - Hooper Branch only (second season only) (2) (5)

Joliet Army Ammunition Plant (an additional \$15 fee will be assessed upon registration) (2) (3) (5)

Kickapoo State Park (2) (5)

Lowden-Miller State Forest (1) (2) (3) (5)

Mackinaw River Fish and Wildlife Area (1) (2) (5)

Marseilles Wildlife Area (1) (2) (5)

Marshall Fish and Wildlife Area (2) (5)

Middle Fork Fish and Wildlife Area (2) (5)

Mississippi Palisades State Park (first season only)

Morrison Rockwood State Park (first season only) (5)

Pike County Conservation Area (2) (5)

Sand Ridge State Forest (1) (2)

Siloam Springs State Park (2) (3)

Site M (1) (3)

Snake Den Hollow Fish and Wildlife Area (the last Saturday in January) (5)

Tapley Woods State Natural Area

Witkowski Wildlife Area

(Source: Amended at 19 Ill. Reg. \_\_\_\_\_, effective \_\_\_\_\_)

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## NOTICE OF PROPOSED AMENDMENTS

## Section 650.65 Youth Hunt

Statewide regulations shall apply; the youth hunting date will be the first three days of the statewide firearm deer season. Youth hunters must have a special permit allocated by a mail-in drawing. Only paid firearm permit holders who possess a valid ~~Massac-County~~ Firearm Deer Permit for the county in which the site is located are eligible. Permits will be valid for the three-day season. Any duplicate applications will be denied and those persons shall forfeit their right to a permit. Shooting is allowed from elevated tree stands only. Applicants must be between the ages of 10-15.

Fort Massac State Park ~~(11)~~ ~~---Youth-Deer-Hunt~~ (1) (2)

(Source: Amended at 19 Ill. Reg. \_\_\_\_\_, effective \_\_\_\_\_)

## Section 650.67 Special Hunts for Disabled Hunters

Statewide regulations shall apply; season dates shall be the Thursday, Friday, and Saturday immediately prior to the first firearm deer season, and the Thursday, Friday, and Saturday immediately following the second weekend of the regular firearm season. Permit applications may be obtained from the appropriate Illinois Department of Conservation regional office, and completed applications must be returned to that office by the third Friday in October. Disabled hunters must possess a Class P2A disability card in order to be eligible for the drawing. All participating hunters must show proof of passing the Illinois Hunter Safety Course or an equivalent State program for nonresidents. Additional regulations will be publicly announced.

Rock Cut State Park (2) (5)

(Source: Amended at 19 Ill. Reg. \_\_\_\_\_, effective \_\_\_\_\_)

## DEPARTMENT OF CONSERVATION

## NOTICE OF PROPOSED AMENDMENTS

- 1) Heading of the Part: White-Tailed Deer Hunting Season by Use of Muzzleloading Rifles
- 2) Code Citation: 17 Ill. Adm. Code 660
- 3) Section Numbers:
- |        |                         |
|--------|-------------------------|
| 660.10 | <u>Proposed Action:</u> |
| 660.20 | Amendments              |
| 660.22 | Amendments              |
| 660.25 | Amendments              |
| 660.30 | Amendments              |
| 660.40 | Amendments              |
| 660.50 | Amendments              |
| 660.60 | Amendments              |

- 4) Statutory Authority: Implementing and authorized by Sections 1.3, 1.4, 1.13, 2.24, 2.25, 2.26, 2.33 and 3.36 of the Wildlife Code (520 ILCS 5/1.3, 1.4, 1.13, 2.24, 2.25, 2.26, 2.33 and 3.36).

- 5) A Complete Description of the Subjects and Issues Involved: Amendments to this Part include discontinuing the issuance of the head and hide tag to conform to the archery rule (17 Ill. Adm. Code 670) and standardizing site-specific regulations to simplify the rule.

- 6) Will this Proposed Rule Replace an Emergency Rule Currently in Effect? No

- 7) Does this Rulemaking Contain an Automatic Repeal Date? No

- 8) Do these Proposed Amendments Contain Incorporations by Reference? No

- 9) Are there any other Proposed Amendments Pending on this Part? No

- 10) Statement of Statewide Policy Objectives: This rule has no impact on local governments.

- 11) Time, Place and Manner in which Interested Persons may Comment on this Proposed Rulemaking: Comments on the proposed rule may be submitted in writing for a period of 45 days following publication of this notice to:

Jack Price  
Department of Conservation  
524 S. Second Street, Room 430  
Springfield, IL 62701-1787  
(217) 782-1809

- 12) Initial Regulatory Flexibility Analysis: This rule does not affect small businesses.

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- 13) State Reason(s) for this Rulemaking if it was not Included in Either of the Two Most Recent Regulatory Agendas: Included in Regulatory Agendas submitted for period January 1 - June 30, 1995.

The full text of the Proposed Amendments begins on the next page.



## DEPARTMENT OF CONSERVATION

## NOTICE OF PROPOSED AMENDMENTS

TITLE 17: CONSERVATION  
CHAPTER I: DEPARTMENT OF CONSERVATION  
SUBCHAPTER b: FISH AND WILDLIFE

PART 660  
WHITE-TAILED DEER HUNTING SEASON BY USE  
OF MUZZLELOADING RIFLES

## Section

- 660.10 Statewide Season and Permit Quotas
- 660.20 Statewide Deer Permit Requirements
- 660.21 Deer Permit Requirements - Free Landowner/Tenant Permits
- 660.22 Deer Permit Requirements - Special Hunts
- 660.25 Deer Permit Requirements - Group Hunt
- 660.30 Statewide Muzzleloading Rifle Requirements
- 660.40 Statewide Deer Hunting Rules
- 660.45 Reporting Harvest
- 660.50 Rejection of Application/Revocation of Permits
- 660.60 Regulations at Various Department-Owned or -Managed Sites

AUTHORITY: Implementing and authorized by Sections 1.3, 1.4, 1.13, 2.24, 2.25, 2.26, 2.33 and 3.36 of the Wildlife Code [520 ILCS 5/1.3, 1.4, 1.13, 2.24, 2.25, 2.26, 2.33 and 3.36].

SOURCE: Adopted at 15 Ill. Reg. 4777, effective March 18, 1991; amended at 15 Ill. Reg. 11627, effective August 2, 1991; amended at 16 Ill. Reg. 11150, effective June 30, 1992; amended at 17 Ill. Reg. 10865, effective July 1, 1993; amended at 18 Ill. Reg. 5878, effective April 5, 1994; amended at 18 Ill. Reg. 13435, effective August 23, 1994; amended at 19 Ill. Reg. \_\_\_\_\_, effective \_\_\_\_\_.

## Section 660.10 Statewide Season and Permit Quotas

- a) Season: One-half hour before sunrise on Friday of the third 3-day (Friday, Saturday, Sunday) weekend following Thanksgiving to sunset on Sunday of this 3-day weekend in December. The hunter with a Muzzleloading Rifle Deer Permit may also hunt during the second firearm deer season (the first 4-day weekend ~~+~~ -- Thursday, Friday, Saturday and Sunday) -- following Thanksgiving), providing the hunter must use only a legal muzzleloading rifle and must abide by 17 Ill. Adm. Code 650.60 when hunting on Department-owned or -managed sites. Hunting hours are one-half hour before sunrise to sunset.
- b) Permit quotas shall be set by the Department of Conservation on a county or special hunt area basis. Cook, DuPage, Lake and Kane counties are closed to muzzleloading rifle deer hunting.

(Source: Amended at 19 Ill. Reg. \_\_\_\_\_, effective \_\_\_\_\_.)

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## Section 660.20 Statewide Deer Permit Requirements

- a) Illinois resident hunters must have a current, valid "Muzzleloading Rifle Deer Permit" (\$15.00). Muzzleloading rifle deer permit fees for non-residents shall be \$100.00 for each either-sex muzzleloading permit and \$25.00 for each antlerless-only permit. A permit is issued for one county and is valid only in the county stated on the permit. Only applicants who receive an either-sex permit in a county or special hunt area are eligible for an antlerless-only permit for that county or special hunt area. For permit applications and other information write to:

Department of Conservation  
(Muzzleloading Rifle)  
Deer Permit Office  
524 South Second Street, Room 210  
P.O. Box 19227  
Springfield, IL 62794-9227

- b) Applications from residents shall be accepted through April 30 the last weekday in April of the current year. Applications received after April 30 the last weekday in April shall not be included in the lottery. Permits shall be allocated in a computerized random drawing in which only one choice of hunt area or county shall be considered. Permits shall be issued as either-sex, antlerless-only or antlered only. A maximum of one either-sex and one antlerless-only permit shall be issued per person.
- c) Applicants must check the antlerless-only box and enclose an additional \$15.00 if they want to apply for an additional antlerless-only permit. Antlerless-only permits will be issued until the antlerless-only quota is filled for a given county or special hunt area.
- d) Permits for counties with unfilled quotas after the lottery shall be allocated in a random drawing procedure. Applications for the random daily drawing shall be accepted beginning August 1 and ending August 12 on the tenth weekday in August of the current year. Applicants may also apply for remaining antlerless-only permits by checking the antlerless-only box and enclosing an additional \$15.00. Applications received prior to August 1 will be processed in the August 1 daily drawing. A list of unfilled counties shall be announced prior to the August application dates. Applicants must apply on a current year "Muzzleloading Rifle" Deer Permit application form. All applications for the random daily drawing shall be processed individually. This application period is open only to those applicants who were not previously issued firearm permits for the current hunting season, except as provided in Section 660.20(e). A maximum of one either-sex and one antlerless-only permit shall be issued per person.
- e) Those applicants who have already received a muzzleloading rifle

## DEPARTMENT OF CONSERVATION

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permit and did not check the antlerless-only box may apply for an antlerless-only permit for the county specified on their either-sex permit beginning ~~August-29~~ September 1. Applicants shall complete an application form, provide a photocopy of their either-sex permit, and enclose a check for \$15.00 (\$25.00 for non-residents).

- f) In-person and mail-in applications shall receive equal treatment in the drawings. For the random daily drawing, applications received one day shall not be processed until all applications received for that day are mixed. All applications received on a specific day shall be processed before processing applications received for a subsequent day.

- g) Applicants must complete all portions of the current year permit application form. Incomplete or incorrect applications shall be returned along with the applicant's permit fee for correction or completion if received in this office prior to ~~April-30~~ the last weekday in April of the current year. No more than 6 single applications per envelope shall be accepted. Each applicant must submit a separate personal check or money order. Separate envelopes must be used to send permit applications to the Deer Permit Office for regular firearm, muzzleloading rifle, archery, and free or paid landowner/tenant permits.

- h) Applications for non-resident muzzleloading rifle firearm permits shall be accepted beginning August 1 and will be included with the residents in the Random Daily Drawing.

- i) There will be an application period which starts ~~August-29-and-ends November-7~~ September 1 and ends the fifth weekday in November during which anyone (regardless of any other permit they may have) can apply for muzzleloading deer permits (\$15.00 fee) left over from the county and special hunt area quotas. During the application period, the permits shall be issued in a random daily drawing. Applicants can apply for one or more permits during this application period. Full season antlerless-only permits shall only be issued to successful applicants submitting applications after October 24 cannot be guaranteed a permit by the start of the second firearm deer hunting season. Applicants must print ~~August-29~~ "September 1-Multiple Muzzleloader Permits" on the outside of the envelope and mark the ~~August-29~~ "September 1-Multiple Permits" box on the muzzleloading rifle deer permit application.

- j) Hunter preference in obtaining a muzzleloading rifle permit shall be given to unsuccessful lottery applicants from the previous year who were unsuccessful due to the county of their choice being full. The following criteria must be met to obtain a preference in the muzzleloading rifle permit lottery.

- 1) The applicant must apply using the official agency preprinted data-mailer application.
- 2) The applicant must be a resident of the state, be eligible to receive a Muzzleloading Rifle Deer Permit, and not had deer

## DEPARTMENT OF CONSERVATION

## NOTICE OF PROPOSED AMENDMENTS

- hunting privileges revoked pursuant to Section 660.50.
- 3) The applicant must apply for the same county choice which he/she listed on the previous year's application.

- 4) Where applicants apply as a group, preference for the entire group shall apply as it does above for the individual. All county choices for the group must be identical.

- k) Applications shall be accepted at the counter window of the permit office; however, permits shall be mailed.

- l) Permits are not transferrable. Refunds shall not be granted unless the Department of Conservation (Department) has erroneously issued the permit after the quota has been depleted or where the applicant was unsuccessful in obtaining a permit.

- m) A three dollar (\$3.00) service fee shall be charged for replacement permits issued by the Department, except when permits are lost in the mail, then there shall be no charge. Monies derived from this source shall be deposited in the Wildlife and Fish Fund.

- n) Each applicant must enclose a separate \$15.00 (check or money order) payable to the Department of Conservation, or the application shall be returned. Applications should not send cash with their applications. The Department shall not be responsible for cash sent through the mail.

(Source: Amended at 19 Ill. Reg. \_\_\_\_\_, effective \_\_\_\_\_)

## Section 660.22 Deer Permit Requirements - Special Hunts

- a) ~~Special hunts are regulated by the agency which manages the property. The permit office only issues muzzleloading rifle deer hunting permits for the Deer Division of the Mark Twain National Wildlife Refuge. Special hunt sites are defined as those sites which are owned or controlled by agencies/entities other than the Department, or sites at which the Department only controls a portion of the property designated for deer hunting, which issue deer hunting permits through the statewide lottery process. The Permit Office issues deer hunting permits through a computerized drawing for sites listed below, in addition to the Department-owned or -managed sites listed in Section 660.60(h).~~

~~Declar Division, Mark Twain National Wildlife Refuge (last 3 days only, additional regulations will be publicly announced)~~

- b) Each applicant must enclose a separate fee (check or money order) payable to the Department of Conservation, or the application will be RETURNED. Applicants should not send cash with their application. The Department will not be responsible for cash sent through the mail.

(Source: Amended at 19 Ill. Reg. \_\_\_\_\_, effective \_\_\_\_\_)

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**Section 660.25 Deer Permit Requirements - Group Hunt**

- a) Up to six individuals may apply to hunt as a group. If applicants are applying in a group, all applications for the group must be sent to the Department in the same envelope. All applications for the group shall be processed together only if they are received in the same envelope. Any applications indicating participation in a group that are not received in the same envelope shall be processed separately.
- b) Each individual must sign his or her own application.
- c) In order to receive preference of the group, all members must have preference for the same county choice. If any member does not have preference for the group's first county choice, the entire group shall not receive preference. ~~The group leader's hunter number is the number identified in the hunter number field on the group leader's application letter. If the application letter is lost, the applicant should contact the permit office for the leader's hunter number.~~
- d) Applicants applying as a group shall be rejected if they do not list the same county choice and complete the group leader information listing the identical group leader.

(Source: Amended at 19 Ill. Reg. \_\_\_\_\_, effective \_\_\_\_\_)

**Section 660.30 Statewide Muzzleloading Rifle Requirements**

- a) The only legal hunting device is a single or double barreled muzzleloading firearm of at least .45 caliber shooting a single projectile through a barrel of at least 16 inches in length. (Except that the otherwise lawful possession of rifles to take furbearing mammals and game mammals other than deer shall not be prohibited during the muzzleloading rifle deer season as set in Section 660.10.)
- b) The standards and specifications for use of such muzzleloading firearm are as follows:
- 1) A muzzleloading firearm is defined as a blackpowder firearm that is incapable of being loaded from the breech end.
  - 2) The minimum size of the muzzleloading firearm projectile shall be .440 caliber. ~~and~~ A wad or sleeve is not considered a projectile or a part of the projectile. Full metal jacket bullets cannot be used to harvest white-tailed deer.
  - 3) Only black powder or Pyrodex may be used.
  - 4) Only percussion caps, wheellock, matchlock or flint type ignition may be used.
  - 5) Removal of percussion cap or removal of prime powder from frizzen pan with frizzen open and hammer all the way down or removal of prime powder from flashpan and wheel un-wound or removal of prime powder and match with match not lit shall constitute an unloaded muzzleloading firearm.

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(Source: Amended at 19 Ill. Reg. \_\_\_\_\_, effective \_\_\_\_\_)

**Section 660.40 Statewide Deer Hunting Rules**

- a) The bag limit is one deer per legally authorized either-sex, antlered-only or antlerless-only permit. An either-sex permit holder is allowed to take a deer with or without antlers. An antlered-only permit holder is allowed to take only a deer having at least one antler of a length of 3 or more inches. An antlerless only permit holder is allowed to take only a deer without antlers or a deer having antlers less than 3 inches long.
- b) Recipients of the Muzzleloading Rifle Deer Hunting Permit shall record their signature, Firearm Owner's Identification number (unless exempt), hunting license number (unless exempt), and physical description on the permit and must carry it on their person while hunting.
- c) The leg tag shall be attached and properly sealed immediately upon kill and before the deer is moved, transported or field dressed. No person shall leave any deer that has been killed without properly attaching the leg tag to the deer. ~~The head/antler tag and hide tag must be attached to the appropriate parts when the deer parts of deer is delivered to a licensed fur buyer or tanner or taxidermist for processing.~~ The leg tag must remain attached to the leg of the deer until it is at the legal residence of the person who legally took or possessed the deer. Persons delivering deer/parts of deer to a taxidermist, furbuyer, or tanner for processing must supply the taxidermist, furbuyer, or tanner with their deer permit number to verify lawful acquisition. In the absence of a permit number, the taxidermist, furbuyer, or tanner may rely on the written certification of the person from whom the deer was received that the specimen was legally taken or obtained.
- d) Hunters shall not have in their possession, any deer permit issued to another person, while in the field during muzzleloading rifle deer season (permits are non-transferable).
- e) Permits will not be re-issued in cases involving deer taken which are found to be diseased or spoiled due to previous injury. Legal disposal of unfit deer taken shall be the responsibility of the hunter.

(Source: Amended at 19 Ill. Reg. \_\_\_\_\_, effective \_\_\_\_\_)

**Section 660.50 Rejection of Application/Revocation of Permits**

- a) In the event that an applicant is in violation of one of the following subsections, the application shall be held in suspension, and the



## DEPARTMENT OF CONSERVATION

## NOTICE OF PROPOSED AMENDMENTS

application fees shall be deposited, pending a determination by the permit office of whether the violation was knowing. If the permit office determines the violation was knowing, the application shall be rejected and the fee shall be retained by Conservation. The applicant may request a hearing on this decision pursuant to 17 Ill. Adm. Code 2530. Should it be determined that the violation was without the knowledge of the applicant, the permit office will process only the number of applications allowed by administrative rule ~~but will retain the fees for all applications.~~ These monies will be deposited into the Wildlife and Fish Fund with additional applications rejected and fees returned.

- 1) Using hunting rights lease, or mineral rights lease or other lease for land which does not evidence a genuine farm tenancy to obtain a landowner or tenant firearm deer permit.
- 2) Submitting more application in the same number or by the same person for a Muzzleloading Rifle Deer Permit than allowed in Section 660.20.
- 3) Applying prior to ~~August-30~~ September 1 for a muzzleloading rifle deer permit if you have applied for and received a regular shotgun firearm permit.
- 4) Providing false and/or deceptive information on the deer permit application form.
- 5) Submitting an application when the applicant has a license or permit currently revoked pursuant to Section 3.36 of the Wildlife Code.
- b) Any violation of Section 1.1, et seq., of the Wildlife Code or administrative rules of the Department, in addition to other penalties, may result in revocation of hunting licenses and permits as per 17 Ill. Adm. Code 2530.

(Source: Amended at 19 Ill. Reg. \_\_\_\_\_, effective \_\_\_\_\_)

## Section 660.60 Regulations at Various Department-Owned or -Managed Sites

- a) All the regulations in 17 Ill. Adm. Code 510 - General Hunting and Trapping apply in this Section, unless this Section is more restrictive.
- b) Tree stands that are used for hunting deer must be legibly marked with the owner's name, address and telephone number when left unattended. These tree stands must comply with restrictions listed in 17 Ill. Adm. Code 510(c)(3) and must be portable. ~~Only one tree stand is allowed per deer permit holder.~~
- c) Tree stands may be left unattended during the deer season at those sites listed in the following subsections that are followed by a "1".
- d) Statewide regulations shall apply at the following sites:
  - Cache River State Natural Area (111)
  - et) Statewide regulations shall apply at the following sites with hunters must check out and report harvest:
    - Port de Chatre-Hydroelectric State Hunting in Designated Areas (111)
    - Sanapota-Mine-Pulmon-and-Schuyler-Counties
    - Ten Mile Creek Fish and Wildlife Management Area-Badger-Barksten and-Goshen-trait-Units-only (permits required-areas designated as Refuge-are closed to all access during Grand Goose Season-only permits must be obtained to District Wildlife Manager--1.0--Box 3137-Gibney-111-62450-by-February-15-(111)
    - Wildcat-Hollow-State Park

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- Campbell-Pond-Wildlife-Management-Area-(111)
- Early-Lake-Wildlife-Management-Area-except-Subpondment-Area
- Chauncey-Marsh-(Permits-Required-may-be-obtained-at-Red-Hills State-Park-headquarters; permits must be returned by February-15; no hunting in dedicated Nature Preserve-(111)
- Crawford-County-Conservation-Area-(111)
- Bog-Island-Wildlife-Management-Area-(111)
- Hamilton-County-Conservation-Area-(111)
- Kaskaskia-River-Fish-and-Wildlife-Area-except-Bozo-Steak Waterford-Management-Area-where-muzzelloading-System-See hunting-is-prohibited-during-duck-season
- Kidd-Lake-State-Natural-Area-(111)
- Mississippi-River-Pools-167-177-197-217-227-24
- Mississippi-River-Pools-257-26-(111)
- Oakford-Conservation-Area
- Panther-Creek-Conservation-Area-(111)
- Rend-Lake-Project-Lands-and-Waters
- Saltine-County-Conservation-Area-(111)
- Sangamon-Conservation-Area-(111)
- Sanapota-Mine-Pulmon-and-Schuyler-Counties
- Ten Mile Creek Fish and Wildlife Management Area-Badger-Barksten and-Goshen-trait-Units-only (permits required-areas designated as Refuge-are closed to all access during Grand Goose Season-only permits must be obtained to District Wildlife Manager--1.0--Box 3137-Gibney-111-62450-by-February-15-(111)
- Wildcat-Hollow-State Park
- et) Statewide regulations shall apply at the following sites with hunters must check out and report harvest:
  - Port de Chatre-Hydroelectric State Hunting in Designated Areas (111)

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Pete-Marquette-State-Park-(f)(f)

Pyramid-State-Park-(f)(f)

Turkey-Bluffs-Fish-and-Wildlife-Area-(f)(f)

Weinberg-King-State-Park

f) Statewide-regulations-shall-apply-except-hunting-allowed-by-permit only-One-day-hunter-permits-are-allocated-by-public-drawing-every-day for-the-next-day-hunter-Drawings-are-Kickapoo-State-Park-and-Middle Fork-State-Fish-and-Wildlife-Area-will-be-held-at-the-Kickapoo-State Recreation-Area-Office-check-in-and-check-out-and-reporting-deer harvested-regulated-of-antler-hunters

Hidden-Springs-State-Forest-(f)(f)

Dublee-College-State-Park

Kickapoo-State-Park-(f)(f)

Middle-Fork-Fish-and-Wildlife-Area-(f)(f)

g) Statewide-regulations-shall-apply-except-hunting-allowed-by-permit check-out-at-the-state-check-station-(f)(f)

Perry-City-State-Park-(f)(f)

h) Rosebush-Bake-Conservation-Area-Alexander-County-the-public-goose hunting-area-(f)(f)

I-24-Wildlife-Management-Area-(f)(f)

Kinkaid-Bake-Fish-and-Wildlife-Area-(f)(f)

Mormon-Conservation-Area-hunting-north-of-blacktop-only-(f)(f)

Sand-Ridge-State-Forest-(f)(f)

Southern-Illinois-University-Indian-Creek-Management-Unit-(f)(f) Vapley-Woods-State-Natural-Area-muzzle-loader-only-permits-are not-valid-during-the-second-firearm-deer-season

Trail-of-tears-State-Forest-(f)(f)

h) Union-County-Conservation-Area-fitting-line-management-(f)(f) Hunting-is-limited-the-last-four-days-of-the-statewide-firearm-deer season-only-and-by-special-permit-only-permits-will-be-allocated-by a-firearm-deer-permit-draw-in-drawing-at-the-state-office-the registration-procedure-number-quotas-and-dates-for-the-drawing-will-be announced-by-public-news-release-All-individuals-must-possess-a current-Union-County-or-Sangamon-County-muzzle-loading-Rifle-Deer permit-to-be-allocated-for-the-drawing-Special-Sangam-Bake-firearm deer-permits-available-after-the-drawing-will-be-allocated-on-a first-come-first-served-basis-from-the-state-office-All-permit holders-must-show-up-by-6:30-a.m.-at-the-state-office-for-the-North Mainland-Area-and-leave-Mainland-Area-permit-holders-for-the North Mainland-Area-must-show-up-by-6:30-a.m.-on-the-Thursday-of-the-second statewide-firearm-deer-season-and-by-9:00-a.m.-all-subsequent-daily vacancies-will-be-filled-on-a first-come-first-served-basis-at-the-state-office beginning immediately-after-the-specified-deadline-check-in-and-check

## DEPARTMENT OF CONSERVATION

## NOTICE OF PROPOSED AMENDMENTS

out-and-reporting-of-deer-harvested-is-required-of-ant-hunters-to minimize-safety-concerns-regarding-the-simultaneous-hunting-of-deer and-waterfowl-the-permits-will-be-allocated-to-deer-hunting-unit-111 a.m.-on-the-Friday-Saturday-and-Sunday-of-the-December-firearm-deer season-Shotgun-and-muzzle-loader-hunters-on-the-North-and-East Mainland-Areas-may-hunt-during-statewide-hunting-hours-Only antlerless-deer-and-deer-with-at-least-one-antler-with-5-or-more points-on-one-side-may-be-harvested

Sangam-Bake-Fish-and-Wildlife-Area

i) Statewide-regulations-shall-apply-and-in-addition-ant-hunters-must have-a-permit-allocated-by-a-mat-in-drawing-held-at-the-State-Office-Permits-shall-be-valid-for-Area-B-only-Only-one-permit-shall-be valid-for-the-season-Only-one-permit-per-person-shall-be-issued-Any duplicate-applications-shall-be-denied-and-the-hunter-shall-forfeit his-rights-to-a-permit

Pike-County-Conservation-Area

j) Hunting-is-allowed-during-the-muzzle-loading-rifle-deer-season-only-by special-antlerless-permit-only-Application-procedure-and-special regulations-to-be-announced-by-news-release

Bettendorf-Division-of-the-Mark-Twain-National-Wildlife-Refuge

k) Statewide-regulations-shall-apply-except-that-only-antlerless-deer-or antlered-deer-having-at-least-4-points-on-one-side-may-be-shooted-antler-Middle-Fork-Fish-and-Wildlife-Management-Area-Bettendorf-Unit-only-permit-required-areas-designated-as-Refuge-are-closed to-all-access-during-Canada-Goose-season-Only-permits-must-be returned-by-February-15-to-District-Wildlife-Manager-P.O.-Box 9139-Orney-IB-62450-(f)(f)

b) Only one tree stand is allowed per deer permit holder. Tree stands must comply with restrictions listed in 17 Ill. Adm. Code 510(c)(3) and must be portable. Tree stands must be removed at the end of each day with the exception that they may be left unattended from September 15 - January 31 at those sites listed in the following subsections that are followed by a (1).

c) Check-in, check-out and reporting of harvest is required at those sites listed in the following subsections that are followed by a (2).

d) Handicapped preferred hunting opportunities are provided at those sites listed in the following subsections that are followed by a (3).

e) Only antlerless deer or antlered deer having at least four points on one side may be harvested at those sites listed in the following subsections that are followed by a (4).

f) Only antlerless deer or antlered deer having at least five points on one side may be harvested at those sites listed in the following subsections that are followed by a (5).

g) Statewide regulations shall apply at the following sites:

Cache River State Natural Area (1) (2)

Carlyle Lake Wildlife Management Area except subimpoundment areas

## DEPARTMENT OF CONSERVATION

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Carlisle Lake Lands and Waters - Corps of Engineers managed lands

Chauncey Marsh (1) (2)

Crawford County Fish and Wildlife Area (1) (2)

Dog Island Wildlife Management Area (1) (2)

Perne Clyffe State Park (1) (2)

Port de Chartres Historic Site (1) (2)

Giant City State Park (1) (2)

Hamilton County Fish and Wildlife Area (1) (2)

Hidden Springs State Forest (closed during second firearm deer season) (1) (2)

Horseshoe Lake Conservation Area - Alexander County (all portions of the Public Hunting Area except the Controlled Goose Hunting Area) (1) (2)

I-24 Wildlife Management Area (1) (2)

Kaskaskia River Fish and Wildlife Area (Boza Creek Waterfowl Management Area is closed during duck season) (2, except south of Highway 154 and north of Highway 13)

Kickapoo State Park (1) (2) (6)

Kidd Lake State Natural Area (1)

Kinkaid Lake Fish and Wildlife Area (1) (2)

Mermet Lake Conservation Area (1) (2)

Middle Fork Fish and Wildlife Area (1) (2) (6)

Mississippi River Pool 16 (1)

Mississippi River Pool 17 (1)

Mississippi River Pool 18 (1)

Mississippi River Pools 21, 22, 24

Mississippi Fish and Waterfowl Management Area - Pools 25 and 26

## DEPARTMENT OF CONSERVATION

## NOTICE OF PROPOSED AMENDMENTS

Oakford Conservation Area (1)

Panther Creek Conservation Area (1) (2)

Pere Marquette State Park (hunting in designated area only) (2)

Pike County Conservation Area (2)

Pyramid State Park (1) (2)

Rend Lake Fish and Wildlife Area

Saline County Fish and Wildlife Area (1) (2)

Sand Ridge State Forest (1) (2)

Sanganois Fish and Wildlife Area (1)

Ten Mile Creek Fish and Wildlife Area (1): Belle River Unit only (4)

Trail of Tears State Forest (1) (2)

Turkey Bluffs Fish and Wildlife Area (1) (2)

Union County Conservation Area (1) (2)

Weinberg-King State Park (2)

Wildcat Hollow State Forest (1)

h) Statewide regulations shall apply at the following sites by special permit allocated through the regular statewide drawing. Season dates that differ from the statewide dates are in parentheses. Sites that offer standby hunting are followed by a (6). At sites offering standby hunting, permit holders must register at the check station by 5:00 a.m. each day of the hunt. Unvalidated permits are void after 5:00 a.m. Vacancies each day will be filled by a drawing held at 5:00 a.m. Vacancies may be filled by any person holding a valid hunting license, Habitat Stamp, and Firearm Owner Identification Card, if required. Standby hunters will be issued a one-day site-specific deer permit at the check station, and charged a permit fee of \$5.00. All hunters must check out and report harvest.

Tapley Woods State Natural Area (closed during the second firearm deer season)

(Source: Amended at 19 Ill. Reg. \_\_\_\_\_, effective \_\_\_\_\_)



## DEPARTMENT OF CONSERVATION

## NOTICE OF PROPOSED AMENDMENTS

\_\_\_\_\_ )

## ILLINOIS HOUSING DEVELOPMENT AUTHORITY

## NOTICE OF PROPOSED RULES

1) Heading of the Part: Affordable Housing Bond Program - Single Family

2) Code Citation: 47 Ill. Adm. Code 366

3) Section Numbers:

	<u>Proposed Action:</u>
366.101	New Section
366.102	New Section
366.103	New Section
366.104	New Section
366.105	New Section
366.106	New Section
366.107	New Section
366.108	New Section
366.109	New Section
366.110	New Section
366.111	New Section
366.112	New Section
366.113	New Section
366.201	New Section
366.202	New Section
366.203	New Section
366.301	New Section
366.302	New Section
366.303	New Section
366.401	New Section
366.402	New Section
366.403	New Section
366.404	New Section
366.405	New Section
366.501	New Section
366.502	New Section
366.503	New Section
366.504	New Section
366.601	New Section
366.602	New Section
366.603	New Section
366.604	New Section

4) Statutory Authority: Sections 7.19 and 7.25 of the Illinois Housing Development Act [20 ILCS 3085/7.19 and 7.25] and Sections 4 and 7(e) of the Illinois Affordable Housing Act [310 ILCS 65/4 and 7(e)]

5) A Complete Description of the Subjects and Issues Involved: These proposed rules establish the procedures for operation of the single family portion of the Affordable Housing Bond Program. The Affordable Housing Bond Program was created for the making of loans and grants to acquire, construct, rehabilitate, develop, operate, insure and retain affordable single-family and multi-family housing for low-income and very low-income

ILLINOIS HOUSING DEVELOPMENT AUTHORITY

NOTICE OF PROPOSED RULES

households.

- 6) Will this rulemaking replace any emergency rulemaking currently in effect? Yes.
- 7) Does this rulemaking contain an automatic repeal date? No.
- 8) Does this rulemaking contain incorporations by reference? No.
- 9) Are there any other proposed rulemakings pending on this part? No.

10) Statement of Statewide Policy Objectives: These proposed rules create a statewide program that creates and retains single-family affordable housing for low-income and very low-income households.

11) Time, Place, and Manner in which interested persons may comment on this proposed rulemaking: Interested parties may submit comments, data, views or arguments concerning this rulemaking in writing to: Richard B. Muller, Esq., 401 N. Michigan Ave., Suite 900, Chicago, Illinois 60611, (312)836-5200. The Authority will consider all written comments received at the above address within 45 days of the date of publication of this notice.

12) Initial Regulatory Flexibility Analysis:

A) Date rules were submitted to the Business Assistance Office of the Department of Commerce and Community Affairs: January 30, 1995.

B) Types of small businesses affected: The proposed amendment will have a favorable impact on small to midsize real estate developers and contractors.

C) Reporting, bookkeeping or other procedures required for compliance: No new requirements.

D) Types of professional skills necessary for compliance: No new professional skills needed.

13) State reason(s) for this rulemaking if it was not included in either of the two (2) most recent regulatory agendas: None

The full text of the Proposed Rules are identical to that of the Emergency Rules beginning on page of this issue: 1923

DEPARTMENT OF MINES AND MINERALS

NOTICE OF PROPOSED AMENDMENTS

1) Heading of the Part: Administrative and Judicial Review

2) Code Citation: 62 Ill. Adm. Code 1847

3) Section Number: Proposed Action:

- |        |       |
|--------|-------|
| 1847.3 | Amend |
| 1847.4 | Amend |
| 1847.5 | Amend |
| 1847.6 | Amend |
| 1847.7 | Amend |

4) Statutory Authority: Implementing and authorized by the Surface Coal Mining Land Conservation and Reclamation Act (Ill. Rev. Stat. 1991, ch. 96 1/2, pars. 7901.01 et seq.) (225 ILCS 720).

5) A complete description of the subjects and issues involved:

Section 1847.3 sets forth administrative review provisions for various types of proceedings. Its title is proposed to be revised because it covers various types of hearings and is not limited to permit hearings. Subsection (a) is proposed to be amended by adding clarifying language that a Departmental decision not to inspect or enforce under 62 Ill. Adm. Code 1840.17 is subject to administrative review, as well as permit decisions issued pursuant to 62 Ill. Adm. Code 1785.23. Subsection (1)(2) is proposed to be amended in response to the Office of Surface Mining Reclamation and Enforcement's requirement at 58 Fed. Reg. 46852 (September 3, 1993).

Sections 1847.3, 1847.4, 1847.5, 1847.6 and 1847.7 are proposed to be amended to allow parties to administrative hearings an opportunity to file written exceptions and responses thereto with the hearing officer who issued a proposed decision in the proceeding.

6) Will this proposed rule replace an emergency rule currently in effect? No

7) Does this rulemaking contain an automatic repeal date? No

8) Do these proposed amendments contain incorporations by reference? No

9) Are there any other amendments pending on this part? No

10) Statement of Statewide Policy Objectives: The proposed amendments will have no impact on local units of government.

11) Time, Place, and Manner in which interested persons may comment on this proposed rulemaking:

DEPARTMENT OF MINES AND MINERALS  
NOTICE OF PROPOSED AMENDMENTS  
TITLE 62: MINING  
CHAPTER I: DEPARTMENT OF MINES AND MINERALS

PART 1847  
ADMINISTRATIVE AND JUDICIAL REVIEW

Section	Scope
1847.1	Construction
1847.2	Permit Hearings
1847.3	Citation Hearings
1847.4	Civil Penalty Assessment Hearings
1847.5	Show Cause Hearings
1847.6	Bond Forfeiture Hearings
1847.7	Individual Civil Penalty Hearings
1847.8	Bond Release Hearings
1847.9	

AUTHORITY: Implementing and authorized by the Surface Coal Mining Land Conservation and Reclamation Act (Ill. Rev. Stat. 1991, ch. 96 1/2, pars. 7901.01 et seq.) [225 ILCS 720].

SOURCE: Adopted at 17 Ill. Reg. 10887, effective July 1, 1993; amended at 19 Ill. Reg. \_\_\_\_\_, effective \_\_\_\_\_.

Section 1847.3 Permit Hearings

- a) Within thirty (30) days after an applicant is mailed written notice of the Department's final decision concerning an application for approval of exploration required under 62 Ill. Adm. Code 1772, a permit for surface coal mining and reclamation operations, a permit revision, a permit renewal, a permit rescission or a transfer, assignment, or sale of permit rights, the applicant, or any person with an interest which is or may be adversely affected, may file a written request for a hearing to contest the decision. The procedures outlined in this Section apply to conflict of interest hearings requested under 62 Ill. Adm. Code 1705.21, review of valid existing right determinations under 62 Ill. Adm. Code 1761.12(g), review of exemption determinations under 62 Ill. Adm. Code 1702.11(f) and 1702.17(c)(2), formal review of decisions not to inspect or enforce under 62 Ill. Adm. Code 1840.17, review of a permit issued pursuant to 62 Ill. Adm. Code 1785.23 and hearings requested under 62 Ill. Adm. Code 1773.21(c). Failure to file a request for hearing within this thirty (30) day time period shall result in a waiver of the right to such hearing; requests for hearing filed after the expiration of the thirty (30) day time period shall be dismissed on motion of the Department in accordance with 62 Ill. Adm. Code 1848.12.
- b) The hearing request shall state:
  - 1) The petitioner's name and address;

DEPARTMENT OF MINES AND MINERALS  
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Written comments may be submitted within 45 days of the publication of this notice to:

Karen Jacobs, Legal Counsel  
Illinois Department of Mines and Minerals  
300 West Jefferson, Suite 300  
Springfield, IL 62791-0137  
(217) 782-6791

Commenters must provide a name and address. Comments must be directed to a specific subsection and must be made on a separate sheet of 8 1/2 x 11 inch paper.

Comments may include data, views, arguments or any documents relevant to the proposals noted above in the Description of Subjects and Issues involved. All comments are due at the above address no later than 45 days after the publication of this notice. Comments received thereafter will not be considered in this rulemaking.

12) Initial Regulatory Flexibility Analysis:

- A) Types of small businesses affected: This rulemaking does not affect small businesses.
- B) Reporting, bookkeeping or other procedures required for compliance: None
- C) Types of professional skills necessary for compliance: None

The full text of the Proposed Amendments begins on the next page.



## DEPARTMENT OF MINES AND MINERALS

## NOTICE OF PROPOSED AMENDMENTS

- 2) A clear statement of the facts entitling the petitioner to relief, including the petitioner's interest(s) which is or may be adversely affected by the Department's final decision;
- 3) How the Department's final decision may or will adversely affect the interest(s) specified;
- 4) An explanation of each specific alleged error in the Department's final decision, including reference to the statutory and/or regulatory provisions allegedly violated;
- 5) The specific relief sought from the Department; and
- 6) Any other relevant information.
- c) Any party to the hearing may request that a pre-hearing conference be scheduled, in accordance with 62 Ill. Adm. Code 1848.7.
- d) Unless a pre-hearing conference has been scheduled or unless the person requesting the hearing waives the thirty (30) day time limit, the Department shall start the hearing within thirty (30) days of the hearing request. The hearing shall be on the record and adjudicatory in nature. No person who presided at an informal conference under 62 Ill. Adm. Code 1773.13(c) or a public hearing under 62 Ill. Adm. Code 1773.14 shall either preside at the hearing or participate in the decision following the hearing.
- e) Notice of hearing. The petitioner and other interested persons shall be given written notice of the hearing in accordance with 62 Ill. Adm. Code 1848.5 at least five (5) working days prior thereto. Notice of the hearing shall also be posted at the appropriate district or field office.
- f) Record of hearing. A complete record of the hearing and all testimony shall be made by the Department and recorded stenographically. Such record shall be maintained and shall be available to the public until at least sixty (60) days after the Director's decision referred to in subsection (j) below is issued.
- g) Burden of proof. The party seeking to reverse the Department's decision shall have the burden of proving that the Department's decision was clearly erroneous.
- h) Within thirty (30) days after the close of the record, the hearing officer shall issue and serve, by certified mail, each party who participated in the hearing with a proposed decision consisting of proposed written findings of fact, conclusions of law and an order adjudicating the hearing request.
- i) Within ~~fifteen--~~ten (10) days after service of the hearing officer's proposed decision, each party to the hearing may file with the Director hearing officer written exceptions to the hearing officer's proposed decision, stating how and why such decision should be modified or vacated. All parties shall have ~~fifteen--~~ten (10) days after service of written exceptions to file a response thereto with the Director hearing officer. Failure to file written exceptions or a response thereto is not a failure to exhaust administrative remedies and does not affect a party's right to judicial review.
- j) If no written exceptions are filed, the hearing officer's proposed

## DEPARTMENT OF MINES AND MINERALS

## NOTICE OF PROPOSED AMENDMENTS

- decision shall become final ~~fifteen--~~ten (10) days after service of such decision. If written exceptions are filed, the Director hearing officer shall within fifteen (15) days following the time for filing a response thereto either issue the Department's final administrative decision affirming or modifying the ~~hearing officer's~~ decision and remand the proceeding to the hearing officer ~~for further action~~ for rehearing.
- k) Request for temporary relief.
    - 1) Any party may file a request for temporary relief at any time prior to a decision by the hearing officer, so long as the relief sought is not the issuance of a permit where a permit application has been disapproved in whole or in part. The request for temporary relief shall include:
      - A) A detailed written statement setting forth the reasons why relief should be granted;
      - B) A statement of the specific relief requested;
      - C) A showing that there is a substantial likelihood that the person seeking relief will prevail on the merits of the final determination of the proceeding; and
      - D) A showing that the relief sought will not adversely affect the public health or safety or cause significant, imminent environmental harm to land, air or water resources.
    - 2) The hearing officer may hold a hearing on any issue raised by the request for temporary relief.
    - 3) Within fifteen (15) days after the close of the record on the request for temporary relief, the hearing officer shall issue an order of decision granting or denying such temporary relief. Temporary relief may be granted only if:
      - A) All parties to the proceeding have been notified and given an opportunity to be heard on the request for temporary relief;
      - B) The person requesting such relief shows a substantial likelihood of prevailing on the merits of the final determination of the proceeding;
      - C) Such relief will not adversely affect the public health or safety, or cause significant, imminent environmental harm to land, air or water resources; and
      - D) The relief sought is not the issuance of a permit where a permit has been denied by the Department, in whole or in part, except that continuation under an existing permit shall be allowed where the applicant has a valid permit issued pursuant to 62 Ill. Adm. Code 300.
  - 1) Judicial review. Following service of the Department's final administrative decision, any person with an interest which is or may be adversely affected and who has participated in the administrative hearing under this Section may request judicial review of that decision in accordance with the Administrative Review Law [4735 ILCS

## DEPARTMENT OF MINES AND MINERALS

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5/31), if:

- 1) The person is aggrieved by the Department's final administrative decision; or
- 2) The hearing officer or Department failed to act within the time limits specified in the Surface Mining Control And Reclamation Act of 1977 (30 U.S.C. 1201 et seq.), the Surface Coal Mining Land Conservation and Reclamation Act (State Act) (225 ILCS 720) or this Act.
- 3) Review under this subsection shall not be construed to limit rights established in Section 8.05 of the State Act (225 ILCS 720/8.05).

(Source: Amended at 19 Ill. Reg. \_\_\_\_\_, effective \_\_\_\_\_)

## Section 1847.4 Citation Hearings

- a) A person issued a notice of violation or cessation order under 62 Ill. Adm. Code 1843.11 or 1843.12, or a person having an interest which is or may be adversely affected by the issuance, modification, vacation, or termination of a notice of violation or cessation order, may request review of that action by filing a request for hearing within thirty (30) days after receiving notice of the action. No extension of time will be granted for filing a request for hearing.
- b) Failure to file a request for hearing in accordance with subsection (a) shall not preclude challenging the fact of violation during a civil penalty review proceeding pursuant to 62 Ill. Adm. Code 1847.5.
- c) If a hearing has been requested and a civil penalty is subsequently assessed for the notice of violation or cessation order for which the hearing was requested, the proposed penalty assessment must be forwarded to the Department, in accordance with Section 1847.5(c), within thirty (30) days of receipt of the proposed assessment, for placement in escrow, in order to continue the review proceedings. Failure to forward the money to the Department within thirty (30) days of receipt of the proposed penalty assessment shall result in a waiver of all legal rights to contest both the fact of the violation and the amount of the penalty; requests for hearing filed after the expiration of the thirty (30) day time period shall be dismissed on motion of the Department in accordance with 62 Ill. Adm. Code 1848.12.
- d) Contents of request. The hearing request shall include:
  - 1) A statement of facts entitling the person to relief;
  - 2) A statement indicating the reasons why the fact of the violation is being contested;
  - 3) A statement of the specific relief requested; and
  - 4) Any other relevant information.
- e) Any party to the hearing may request that a pre-hearing conference be scheduled, in accordance with 62 Ill. Adm. Code 1848.7.
- f) Notice of hearing. The applicant and other interested persons shall

## DEPARTMENT OF MINES AND MINERALS

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be given written notice of the hearing in accordance with 62 Ill. Adm. Code 1848.5 at least five (5) working days prior thereto. Notice of the hearing shall also be posted at the appropriate District or field office, at the mine site, and to the extent possible in a newspaper of general circulation in the area of the mine at least five (5) days prior to the hearing.

- g) Record of hearing. A complete record of the hearing and all testimony shall be made by the Department and recorded stenographically. Such record shall be maintained and shall be available to the public until at least sixty (60) days after the Director's decision referred to in subsection (k) is issued.
- h) Burden of proof.

- 1) In citation hearing proceedings conducted under this Section, the Department shall have the burden of going forward to establish a prima facie case as to the validity of the notice, order, or modification, vacation or termination thereof.
- 2) The ultimate burden of persuasion shall rest with the person who requested the hearing.

- i) Within thirty (30) days after the close of the record, the hearing officer shall issue and serve, by certified mail, each party who participated in the hearing with a proposed decision consisting of proposed written findings of fact, conclusions of law and an order adjudicating the hearing request.

- j) Within ~~fifteen--(15) ten--(10)~~ days after service of the hearing officer's proposed decision, each party to the hearing may file with the ~~Director~~ hearing officer written exceptions to the hearing officer's proposed decision, stating how and why such decision should be modified or vacated. All parties shall have ~~fifteen--(15) ten--(10)~~ days after service of written exceptions to file a response thereto with the ~~Director~~ hearing officer. Failure to file written exceptions or a response thereto is not a failure to exhaust administrative remedies and does not affect a party's right to judicial review.

- k) If no written exceptions are filed, the hearing officer's proposed decision shall become final ~~fifteen--(15) ten--(10)~~ days after service of such decision. If written exceptions are filed, the ~~Director~~ hearing officer shall within fifteen (15) days following the time for filing a response thereto either issue the Department's final administrative decision affirming or modifying the hearing officer's decision or remand the proceeding to the hearing officer for further action for rehearing.

- l) The filing of a request for a hearing under this Section shall not operate as a stay of any notice or order, or of any modification, termination, or vacation of any notice or order.
- m) Settlement agreement.

- 1) If a settlement agreement is entered into at any stage of the hearing process, the person to whom the notice or order was issued will be deemed to have waived all right to further review

## DEPARTMENT OF MINES AND MINERALS

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of the violation or penalty in question, except as otherwise expressly provided for in the settlement agreement. The settlement agreement shall contain a waiver clause to this effect.

- 2) If full payment of the amount specified in the settlement agreement is not received by the Department within the agreed upon period after the date of signing, the Department may enforce the agreement or rescind it and proceed to collect the original face amount of the assessment within thirty (30) days from the date of the rescission.

n) Summary disposition. Where the person against whom the notice of violation or cessation order was issued fails to appear at a hearing requested by him, that person will be deemed to have waived his right to a hearing and the hearing officer may assume for purposes of the proceeding:

- 1) That each violation listed in the notice of violation or cessation order occurred; and
- 2) The truth of any facts alleged in such notice or order.

o) Temporary relief.

- 1) Pending completion of a hearing held under this Section, the applicant may file with the Department a written request for temporary relief from any notice or order issued under Section 8.06 of the State Act. The applicant shall not apply to the courts for immediate injunctive relief until a written order or decision granting or denying temporary relief is issued by the hearing officer.

- 2) When to file. An application for temporary relief may be filed by any party to a proceeding under this Section at any time prior to a decision by the hearing officer.

- 3) Contents of application. The application for temporary relief shall include:

- A) A detailed written statement setting forth the reasons why relief should be granted;
- B) A showing that there is a substantial likelihood that the findings of the Department will be favorable to the applicant;
- C) A statement that the relief sought will not adversely affect the health and safety of the public or cause significant, imminent environmental harm to land, air or water resources;
- D) If the application relates to an order of cessation issued pursuant to Section 8.06(b) or (c) of the State Act, a statement of whether the requirement of Section 8.07(d) of the State Act for decision on the request within five (5) days is waived; and

- E) A statement of the specific relief requested.

- 4) Response to application. Except as provided in subsection (o)(5)(B) below, all parties to the proceeding to which the application relates shall have five (5) days from the date of

## DEPARTMENT OF MINES AND MINERALS

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receipt of the application to file a written response.

- 5) Determination on application.

A) If the five (5) day requirement of Section 8.07(d) of the State Act is waived, the hearing officer shall expeditiously conduct a hearing and render a decision on the application for temporary relief.

B) If there is no waiver of the five (5) day requirement of Section 8.07(d) of the State Act, the following special rules shall apply:

- i) The five (5) day time for decision shall not begin to run until the application is received by the hearing officer.

ii) The applicant shall serve all parties with a copy of the application simultaneously with the filing of the application. If service is accomplished by mail, the applicant shall inform such other parties by telephone at the time of mailing that an application is being filed, the contents of the application and with whom the application was filed.

iii) All parties may indicate their objection to the application by communicating such objection to the hearing officer and the applicant by telephone. All parties shall simultaneously reduce their objections to writing. The written objections must be immediately filed with the hearing officer and served upon the applicant.

iv) Upon receipt of the application the hearing officer shall immediately schedule a hearing and inform all parties of the time, date and location of the hearing by telephone. The hearing officer shall reduce such communication to writing in the form of a memorandum to the file. Such hearing may be conducted by telephone if all parties are so amenable.

v) The hearing officer shall either rule from the bench on the application for temporary relief, orally stating the reasons for his decision, or he shall within twenty-four (24) hours of completion of the hearing issue a written decision.

vi) The order or decision of the hearing officer shall be issued within five (5) working days of the receipt of the application for temporary relief.

vii) If at any time after the initiation of this expedited procedure, the applicant requests a delay or acts in a manner so as to frustrate the expeditious nature of this proceeding or fails to supply the information required by subsection (o)(3), such action shall constitute a waiver of the five (5) day requirement of Section 8.07(d) of the State Act.



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6) Temporary relief may be granted under such conditions as the hearing officer may prescribe, if:

A) Unless waived, a hearing has been held in the locality of the permit area on the request for temporary relief in which all parties were given an opportunity to be heard;

B) The applicant shows that there is substantial likelihood that the finding of the Department will be favorable to him; and

C) Such relief will not adversely affect the health and safety of the public or cause significant, imminent environmental harm to land, air or water resources.

p) Judicial review. Following service of the Department's final administrative decision, the permittee or any affected person may request judicial review of that decision in accordance with the Administrative Review Law (Ill. Rev. Stat. 1991, ch. 110, pars. 3-101 through 3-112) [735 ILCS 5/Art. III].

(Source: Amended at 19 Ill. Reg. \_\_\_\_\_, effective \_\_\_\_\_.)

## Section 1847.5 Civil Penalty Assessment Hearings

a) Within thirty (30) days after receipt of a proposed civil penalty assessment, the person against whom the proposed penalty was assessed may request a hearing to contest the fact of the violation or the proposed penalty by filing a written request for hearing.

b) The request for hearing shall include:

1) A short and plain statement indicating the reasons why either the amount of the penalty or the fact of the violation is being contested;

2) Identification by number of all violations being contested; and

3) The identifying number of the cashier's check, certified check, bank draft, personal check, or bank money order accompanying the hearing request.

c) The hearing request shall be accompanied by:

1) Full payment of the proposed assessment in the form of a cashier's check, certified check, bank draft, personal check or bank money order made payable to the Illinois Department of Mines and Minerals to be placed in an escrow account pending final determination of the assessment; and

2) On the face of the payment an identification by number of the violation(s) for which payment is being tendered.

d) Failure to file the proposed penalty assessment with the Department within thirty (30) days of receipt of the proposed penalty assessment shall result in a waiver of all legal rights to contest both the fact of the violation and the amount of the penalty.

e) No extension of time will be granted for full payment of the proposed penalty assessment. If payment is not made within the time period

## DEPARTMENT OF MINES AND MINERALS

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established in this Section, the fact of the violation and the appropriateness of the amount of the penalty shall be deemed admitted, the request for hearing shall be dismissed on motion of the Department in accordance with 62 Ill. Adm. Code 1848.12, and the civil penalty assessment shall become a final administrative decision of the Department.

f) Any party to the hearing may request that a pre-hearing conference be scheduled, in accordance with 62 Ill. Adm. Code 1848.7.

g) The applicant and other interested persons shall be given written notice of the hearing in accordance with 62 Ill. Adm. Code 1848.5 at least five (5) working days prior thereto. Notice of the hearing shall also be posted at the appropriate district or field office, at the mine site, and to the extent possible in a newspaper of general circulation in the area of the mine at least five (5) days prior to the hearing.

h) Settlement agreement.

1) If a settlement agreement is entered into at any stage of the hearing process, the person to whom the notice or order was issued will be deemed to have waived all right to further review of the violation or penalty in question, except as otherwise expressly provided for in the settlement agreement. The settlement agreement shall contain a waiver clause to this effect.

2) If full payment of the amount specified in the settlement agreement is not received by the Department within the agreed upon period after the date of signing, the Department may enforce the agreement or rescind it and proceed to collect the original face amount of the assessment within thirty (30) days from the date of the rescission.

i) Summary disposition.

1) Where the person against whom the proposed civil penalty is assessed fails to appear at a hearing, that person will be deemed to have waived his right to a hearing and the hearing officer may assume for purposes of the assessment:

A) That each violation listed in the notice of violation or cessation order occurred; and

B) The truth of any facts alleged in such notice or order.

2) In order to issue an order or decision assessing the appropriate penalty when the person against whom the proposed civil penalty was assessed fails to appear at the hearing, the hearing officer shall either conduct an ex parte hearing or require the Department to furnish proposed findings of fact and conclusions of law.

j) Record of hearing. A complete record of the hearing and all testimony shall be made by the Department and recorded stenographically. Such record shall be maintained and shall be available to the public until at least sixty (60) days after the decision of the Director referred to in subsection (n) has been issued.

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- k) Burden of proof. In civil penalty review proceedings, the Department shall have the burden of going forward to establish a prima facie case as to the fact of the violation and the amount of the civil penalty and the ultimate burden of persuasion as to the amount of the civil penalty. The person who requested the hearing shall have the ultimate burden of persuasion as to the fact of the violation.
- l) Within thirty (30) days after the close of the record, the hearing officer shall issue and serve, by certified mail, each party who participated in the hearing with a proposed decision consisting of proposed written findings of fact, conclusions of law and an order adjudicating the hearing request.

- 1) If the hearing officer finds that:
- A violation occurred or that the fact of the violation is uncontested, he shall establish the amount of the penalty giving due weight to the Department's proposed civil penalty assessment amount;
  - No violation occurred, he shall issue an order that the proposed assessment be returned to the petitioner.
- 2) If the hearing officer reduces the amount of the civil penalty below that of the Department's proposed assessment, the Department shall within thirty (30) days remit the appropriate amount to the person who made the payment, with interest at the rate of six (6) percent, or at the prevailing United States Department of Treasury rate, whichever is greater.
- 3) If the hearing officer increases the amount of the civil penalty above that of the Department's proposed assessment, the hearing officer shall order payment of the appropriate amount within thirty (30) days of receipt of the decision.

- m) Within ~~fifteen--(15)~~ ten (10) days after service of the hearing officer's proposed decision, each party to the hearing may file with the hearing officer written exceptions to the hearing officer's proposed decision, stating how and why such decision should be modified or vacated. All parties shall have ~~fifteen--(15)~~ ten (10) days after service of written exceptions to file a response thereto with the Director hearing officer. Failure to file written exceptions or a response thereto is not a failure to exhaust administrative remedies and does not affect a party's right to judicial review.

- n) If no written exceptions are filed, the hearing officer's proposed decision shall become final ~~fifteen--(15)~~ ten (10) days after service of such decision. If written exceptions are filed, the Director hearing officer shall within fifteen (15) days following the time for filing a response thereto either issue ~~the--Department's~~ his final administrative decision affirming or modifying ~~the--hearing-officer's~~ his proposed decision, or shall vacate the ~~hearing-officer's~~ decision and remand the proceeding to ~~the--hearing-officer--for--further--action~~ for rehearing.

- o) Judicial review. Following service of the Department's final administrative decision, the permittee or any affected person may

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request judicial review of that decision in accordance with the Administrative Review Law (Ill. Rev. Stat. 1991, ch. 110, pars. 3-101 through 3-112) [735 ILCS 5/Art. III].

(Source: Amended at 19 Ill. Reg. \_\_\_\_\_, effective \_\_\_\_\_)

## Section 1847.6 Show Cause Hearings

- a) Whenever a show cause order is issued under 62 Ill. Adm. Code 1843.13, the permittee shall have thirty (30) days from the completion of service of the show cause order in which to file an answer and request a hearing.

- b) Contents of answer. The permittee's answer to a show cause order shall contain a statement setting forth:

- A detailed explanation as to why a pattern of violations does not exist or has not existed, including all reasons for contesting:

- The fact of any of the violations alleged by the Department as constituting a pattern of violations;
- The willfulness of such violations; or
- Whether such violations were caused by the unwarranted failure of the permittee;

- All mitigating factors the permittee believes exist in determining the terms of the revocation or the length and terms of the suspension;

- Any other alleged relevant facts; and

- Whether a hearing on the show cause order is desired.
- c) Show cause hearings shall be held at the Department's Springfield, Illinois office.

- d) Any party to the hearing may request that a pre-hearing conference be scheduled, in accordance with 62 Ill. Adm. Code 1848.7.

- e) Notice of hearing. The Department shall give written notice of the hearing in accordance with 62 Ill. Adm. Code 1848.5 to all parties. The Department shall publish the notice, if practicable, in a newspaper of general circulation in the area of the surface coal mining and reclamation operation, and shall post it at the Department's office closest to the operation.

- f) Settlement agreement. If a settlement agreement is entered into at any stage of the hearing process, the person to whom the show cause order was issued will be deemed to have waived all right to further review of the show cause order, except as otherwise expressly provided for in the settlement agreement. The settlement agreement shall contain a waiver clause to this effect.

- g) Summary disposition. Where the person to whom the show cause order was issued fails to appear at the hearing, that person will be deemed to have waived his right to a hearing and the hearing officer may assume the truth of any facts alleged in the show cause order.

- h) Burden of proof. In proceedings to suspend or revoke a permit, the

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Department shall have the burden of going forward to establish a prima facie case for suspension or revocation of the permit. The ultimate burden of persuasion that the permit should not be suspended or revoked shall rest with the permittee.

- i) Record of hearing. A complete record of the hearing and all testimony shall be made by the Department and recorded stenographically. Such record shall be maintained and shall be available to the public until at least sixty (60) days after the Director's decision referred to in subsection (1) is issued.
- j) Within thirty (30) days after the close of the record, the hearing officer shall issue and serve, by certified mail, each party who participated in the hearing with a proposed decision consisting of proposed written findings of fact, conclusions of law and an order adjudicating the hearing request. The hearing officer's proposed decision shall include a determination as to whether a pattern of violations exists and, if appropriate, a proposed order suspending or revoking the permit. Permit suspension shall be imposed if the hearing officer determines that this remedy creates less potential harm to the environment and to the health and safety of the public than permit revocation.
- k) Within ~~fifteen--(15)~~ ten (10) days after service of the hearing officer's proposed decision, each party to the hearing may file with the ~~Director~~ hearing officer written exceptions to the hearing officer's proposed decision, stating how and why such decision should be modified or vacated. All parties shall have ~~fifteen--(15)~~ ten (10) days after service of written exceptions to file a response thereto with the ~~Director~~ hearing officer. Failure to file written exceptions or a response thereto is not a failure to exhaust administrative remedies and does not affect a party's right to judicial review.
- l) If no written exceptions are filed, the hearing officer's proposed decision shall become final ~~fifteen--(15)~~ ten (10) days after service of such decision. If written exceptions are filed, the ~~Director~~ hearing officer shall within fifteen (15) days following the time for filing a response thereto either issue ~~the Department's~~ his final administrative decision affirming or modifying ~~the hearing officer's~~ his proposed decision, or shall vacate the ~~hearing officer's~~ decision and remand the proceeding ~~to the hearing officer for further action~~ for rehearing.
- m) Failure to file a timely answer or request for hearing on a show cause order upon which service is deemed complete under 62 Ill. Adm. Code 1843.14 shall, upon motion of the Department in accordance with 62 Ill. Adm. Code 1848.12, result in the Department's issuance of an order suspending or revoking the permit and the permittee's right to mine, which shall constitute the Department's final administrative decision in the matter.
- n) Judicial review. Following service of the Department's final administrative decision, the permittee may request judicial review of that decision in accordance with the Administrative Review Law (Ill.

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Rev. Stat. 1991, ch. 110, pars. 3-101 through 3-112) [735 ILCS 5/Att. IIIg].

(Source: Amended at 19 Ill. Reg. \_\_\_\_\_, effective \_\_\_\_\_)

## Section 1847.7 Bond Forfeiture Hearings

- a) Time for request. After receipt of bond forfeiture notification in accordance with 62 Ill. Adm. Code 1800.50(a)(1), the permittee may request a hearing. The hearing must be requested within fifteen (15) days of the permittee's receipt of bond forfeiture notification. If the permittee does not request a hearing within fifteen (15) days of receipt of the bond forfeiture notification, the Department shall issue a final administrative decision ordering forfeiture. The Department's final administrative decision ordering bond forfeiture shall be transmitted to the Attorney General for collection at the expiration of the time to perfect administrative review pursuant to subsection (1).
- b) Bond forfeiture hearings shall be held at the Department's Springfield, Illinois office.
- c) Any party to the hearing may request that a pre-hearing conference be scheduled, in accordance with 62 Ill. Adm. Code 1848.7.
- d) Notice of hearing. All parties shall be given written notice of the hearing in accordance with 62 Ill. Adm. Code 1848.5 at least five (5) working days prior thereto. Notice of the hearing shall also be posted at the Department's offices.
- e) Settlement agreement. If a settlement agreement is entered into at any stage of the hearing process, the person to whom the bond forfeiture notification was issued will be deemed to have waived all right to further review of the bond forfeiture notification, except as otherwise expressly provided for in the settlement agreement. The settlement agreement shall contain a waiver clause to this effect.
- f) Summary disposition. Where the person to whom the bond forfeiture notification was issued fails to appear at the hearing, that person will be deemed to have waived his right to a hearing and the hearing officer may assume the truth of any facts alleged in the bond forfeiture notification.
- g) Burden of proof. In bond forfeiture proceedings the Department shall have the burden of going forward to establish a prima facie case for bond forfeiture. The ultimate burden of persuasion that the bond should not be forfeited shall rest with the permittee.
- h) Record of hearing. A complete record of the hearing and all testimony shall be made by the Department and recorded stenographically. Such record shall be maintained and shall be available to the public until at least sixty (60) days after the Director's decision referred to in subsection (k) is issued.
- i) Within thirty (30) days after the close of the record for the bond



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forfeiture hearing, the hearing officer shall issue and serve, by certified mail, each party who participated in the hearing with a proposed decision consisting of proposed written findings of fact, conclusions of law and an order adjudicating the bond forfeiture determination.

j) Within ~~fifteen--fifteen~~ ten (10) days after service of the hearing officer's proposed decision, each party to the hearing may file with the ~~Director~~ hearing officer written exceptions to the hearing officer's proposed decision, stating how and why such decision should be modified or vacated. All parties shall have ~~fifteen--fifteen~~ ten (10) days after service of written exceptions to file a response thereto with the ~~Director~~ hearing officer. Failure to file written exceptions or a response thereto is not a failure to exhaust administrative remedies and does not affect a party's right to judicial review.

k) If no written exceptions are filed, the hearing officer's proposed decision shall become final ~~fifteen--fifteen~~ ten (10) days after service of such decision. If written exceptions are filed, the ~~Director~~ hearing officer shall within fifteen (15) days following the time for filing a response thereto either issue ~~the Department's~~ his final administrative decision affirming or modifying the ~~hearing officer's~~ his proposed decision, or shall vacate the ~~hearing officer's~~ decision and remand the proceeding ~~to the hearing officer--for--further--action~~ for rehearing.

l) The Department's final administrative decision may be appealed in accordance with the Administrative Review Law (Ill. Rev. Stat. 1991, ch. 110, pars. 3-101 through 3-112) (735 ILCS 5/Art. III).

(Source: Amended at 19 Ill. Reg. \_\_\_\_\_, effective \_\_\_\_\_)

## DEPARTMENT OF MINES AND MINERALS

## NOTICE OF PROPOSED AMENDMENTS

1) Heading of the Part: Areas Designated by Act of Congress

2) Code Citation: 62 Ill. Adm. Code 1761

3) Section Number: Proposed Action:

1761.11 Amend

4) Statutory Authority: Implementing and authorized by the Surface Coal Mining Land Conservation and Reclamation Act (Ill. Rev. Stat. 1991, ch. 96 1/2, pars. 7901.01 et seq.) [225 ILCS 720].

5) A complete description of the subjects and issues involved:

Section 1761.11 sets forth areas where mining is prohibited or limited, subject to valid existing rights (VER). Subsection (d)(2) is proposed to be amended in order to remove confusion as to whether the prohibition is applicable to planned subsidence. Although counterpart federal regulations do not apply the prohibitions of 30 CFR 761.11 to underground mining, Illinois has historically applied such prohibitions indirectly. That is, planned subsidence operations have been required to establish VER in order to impact protected lands or features. However, the Department will allow subsidence within the buffer zone if the right to subside within the buffer zone has been established, and the protected land or feature will not be materially damaged or adversely impacted by the adjacent subsidence operations. The proposed amendment clarifies this with regard to public roads.

6) Will this proposed rule replace an emergency rule currently in effect?  
No

7) Does this rulemaking contain an automatic repeal date? No

8) Do these proposed amendments contain incorporations by reference? No

9) Are there any other amendments pending on this Part? No

10) Statement of Statewide Policy Objectives: The proposed amendments will have no impact on local units of government.

11) Time, Place, and Manner in which interested persons may comment on this proposed rulemaking:

Written comments may be submitted within 45 days of the publication of this notice to:

Karen Jacobs, Legal Counsel

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Illinois Department of Mines and Minerals  
300 West Jefferson, Suite 300  
Springfield, IL 62791-0137  
(217) 782-5791

Commenters must provide a name and address. Comments must be directed to a specific subsection and must be made on a separate sheet of 8 1/2 x 11 inch paper.

Comments may include data, views, arguments or any documents relevant to the proposals noted above in the Description of Subjects and Issues involved. All comments are due at the above address no later than 45 days after the publication of this notice. Comments received thereafter will not be considered in this rulemaking.

12) Initial Regulatory Flexibility Analysis:

A) Types of small businesses affected: This rulemaking does not affect small businesses.

B) Reporting, bookkeeping or other procedures required for compliance: None

C) Types of professional skills necessary for compliance: None

13) State reason(s) for the rulemaking if it was not included in either of the two (2) most recent regulatory agendas:

This rulemaking was included in the regulatory agenda published at 13 Ill. Reg. 659-684 (January 20, 1995).

The full text of the Proposed Amendments begins on the next page.

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TITLE 62: MINING  
CHAPTER I: DEPARTMENT OF MINES AND MINERALS

## PART 1761

## AREAS DESIGNATED BY ACT OF CONGRESS

Section  
1761.1 Scope  
1761.11 Areas Where Mining is Prohibited or Limited  
1761.12 Procedures

AUTHORITY: Implementing and authorized by the Surface Coal Mining Land Conservation and Reclamation Act (Ill. Rev. Stat. 1991, ch. 96 1/2, pars. 7901.01 et seq.) [225 ILCS 720].

SOURCE: Adopted at 4 Ill. Reg. 37, p. 1, effective June 1, 1982; amended at 6 Ill. Reg. 1, effective June 1, 1982; codified at 8 Ill. Reg. 4933; amended at 11 Ill. Reg. 7976, effective July 1, 1987; amended at 14 Ill. Reg. 11777, effective January 1, 1991; amended at 15 Ill. Reg. 17115, effective January 1, 1992; amended at 17 Ill. Reg. 10909, effective July 1, 1993; amended at 19 Ill. Reg. \_\_\_\_\_, effective \_\_\_\_\_.

**Section 1761.11 Areas Where Mining is Prohibited or Limited**

Subject to valid existing rights, no surface coal mining operations shall be conducted after August 3, 1977, unless those operations existed on the date of enactment:

- a) On any lands within the boundaries of the National Park System, the National Wildlife Refuge System, the National System of Trails, the National Wilderness Preservation System, the Wild and Scenic Rivers System, including study rivers designated under section 5(a) of the Wild and Scenic Rivers Act (16 U.S.C. 1276(a)) or study rivers or study river corridors as established in guidelines pursuant to that Act published at 47 FR 39454 (September 7, 1982), and National Recreation Areas designated by Act of Congress. The guidelines at 47 FR 39454 do not include any subsequent editions or amendments;
- b) On any Federal lands within the boundaries of any national forest; provided, however, that surface coal mining operations may be permitted on such lands, if the Secretary of the United States Department of the Interior (Secretary) finds that there are no significant recreational, timber, economic, or other values which may be incompatible with surface coal mining operations; and surface operations and impacts are incident to an underground coal mine;
- c) On any lands which will adversely affect any publicly owned park or any places included on the National Register of Historic Places, unless approved jointly by the Department and the Federal, State or local agency with jurisdiction over the park or places;
- d) Within one hundred (100) feet measured horizontally of the outside

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right-of-way line of any public road, except:  
1) Where mine access roads or haulage roads join such right of way lines; or

2) Where the Illinois Department of Mines and Minerals (Department) and the public road authority with jurisdiction over the road under Illinois law allows the public road to be relocated, closed, or where the Department allows the area affected, including surface areas impacted by planned subsidence to be within one hundred (100) feet of such road, after:

A) Public notice and opportunity for a public hearing in accordance with Section 1761.12(c); and

B) Making a written finding that the interests of the affected public and landowners will be protected;

e) Within three hundred (300) feet measured horizontally, from any occupied dwelling in existence, under construction, or contracted for at the time of public notice, except when:

1) The owner thereof has provided a written waiver consenting to surface coal mining operations closer than three hundred (300) feet; or

2) The part of the mining operation which is within three hundred (300) feet of the dwelling is a haul road or access road which connects with an existing public road on the side of the public road opposite the dwelling;

f) Within three hundred (300) feet measured horizontally of any public building, school, church, community or institutional building, or public park; or

g) Within one hundred (100) feet measured horizontally of a cemetery. Cemeteries may be relocated if authorized by applicable State law or regulations.

h) There will be no surface coal mining, permitting, licensing or exploration of Federal lands in the National Park System, National Wildlife Refuge System, National System of Trails, National Wilderness Preservation System, Wild and Scenic Rivers System, or National Recreation Areas, unless called for by Acts of Congress.

(Source: Amended at 19 Ill. Reg. \_\_\_\_\_, effective \_\_\_\_\_)

ILLINOIS REGISTER  
DEPARTMENT OF MINES AND MINERALS  
NOTICE OF PROPOSED AMENDMENTS

1) Heading of the Part: Bonding and Insurance Requirements for Surface Coal Mining and Reclamation Operations

2) Code Citation: 62 Ill. Adm. Code 1800

3) Section Number: Proposed Action:

1800.5 Amend

1800.20 Amend

1800.21 Amend

4) Statutory Authority: Implementing and authorized by the Surface Coal Mining Land Conservation and Reclamation Act (Ill. Rev. Stat. 1991, ch. 96 1/2, pars. 7901.01 et seq.) 225 ILCS 720.

5) A complete description of the subjects and issues involved:

Section 1800.5(b)(4) is proposed to be amended to allow the Department to accept letters of credit from national charter banks and banks organized in other states that are not authorized to operate in Illinois, under certain conditions. Section 1800.21(b)(1) is proposed to be similarly amended.

Section 1800.20 sets forth requirements governing surety bonds. Subsections (b)(2) through (5) are proposed to be deleted because they are unnecessary and were removed from federal counterpart regulations. The proposed deletions would have no effect or impact on the surety bond requirements of the Department's program.

6) Will this proposed rule replace an emergency rule currently in effect? No

7) Does this rulemaking contain an automatic repeal date? No

8) Do these proposed amendments contain incorporations by reference? No

9) Are there any other amendments pending on this Part? No

10) Statement of Statewide Policy Objectives: The proposed amendments will have no impacts upon local units of government.

11) Time, Place, and Manner in which interested persons may comment on this proposed rulemaking: Written comments may be submitted within 45 days of the publication of this notice to:

Karen Jacobs, Legal Counsel  
Illinois Department of Mines and Minerals  
300 West Jefferson, Suite 300  
Springfield, IL 62791-0137



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(217) 782-6791

Commentors must provide a name and address. Comments must be directed to a specific subsection and must be made on a separate sheet of 8 1/2 x 11 inch paper.

Comments may include data, views, arguments or any documents relevant to the proposals noted above in the Description of Subjects and Issues involved. All comments are due at the above address no later than 45 days after the publication of this notice. Comments received thereafter will not be considered in this rulemaking.

12) Initial Regulatory Flexibility Analysis:

A) Types of small businesses affected: This rulemaking does not affect small businesses.

B) Reporting, bookkeeping or other procedures required for compliance:  
None

C) Types of professional skills necessary for compliance: None

13) State reason(s) for the rulemaking if it was not included in either of the two (2) most recent regulatory agendas: This rulemaking was included in the regulatory agenda published at 19 Ill. Reg. 659-684 (January 20, 1995).

The full text of the Proposed Amendments begins on the next page.

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TITLE 62: MINING

CHAPTER I: DEPARTMENT OF MINES AND MINERALS

PART 1800

BONDING AND INSURANCE REQUIREMENTS FOR  
SURFACE COAL MINING AND RECLAMATION OPERATIONS

## Section

- 1800.1 Scope and Purpose
- 1800.2 Objective (Repealed)
- 1800.4 Department Responsibilities
- 1800.5 Definitions
- 1800.11 Requirement to File a Bond
- 1800.12 Form of the Performance Bond
- 1800.13 Period of Liability
- 1800.14 Determination of Bond Amount
- 1800.15 Adjustment of Amount
- 1800.16 General Terms and Conditions of Bond
- 1800.17 Bonding Requirements for Underground Coal Mines and Long-Term Coal-Related Surface Facilities and Structures
- 1800.20 Surety Bonds
- 1800.21 Collateral Bonds
- 1800.30 Replacement of Bonds
- 1800.40 Requirement to Release Performance Bonds
- 1800.50 Forfeiture of Bonds
- 1800.60 Terms and Conditions for Liability Insurance

AUTHORITY: Implementing and authorized by the Surface Coal Mining Land Conservation and Reclamation Act (Ill. Rev. Stat. 1991, ch. 96 1/2, pars. 7901.01 et seq.) [225 ILCS 720].

SOURCE: Adopted at 4 Ill. Reg. 37, p. 1, effective June 1, 1982; amended at 6 Ill. Reg. 1, effective June 1, 1982; codified at 8 Ill. Reg. 9354; amended at 11 Ill. Reg. 7985, effective July 1, 1987; amended at 14 Ill. Reg. 11785, effective January 1, 1991; amended at 17 Ill. Reg. 10916, effective July 1, 1993; amended at 19 Ill. Reg. \_\_\_\_\_, effective \_\_\_\_\_.

## Section 1800.5 Definitions

- a) Surety bond means an indemnity agreement in a sum certain payable to the Department, executed by the permittee as principal and which is supported by the performance guarantee of a corporation licensed to do business as a surety in Illinois.
- b) Collateral bond means an indemnity agreement in a sum certain executed by the permittee as principal which is supported by the deposit with the Department of one or more of the following:
  - 1) A cash account, which shall be the deposit of cash in one or more federally-insured or equivalently protected accounts, payable

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only to the Department upon demand, or the deposit of cash directly with the Department;

2) Negotiable bonds of the United States, a State, or a municipality, endorsed to the order of, and placed in the possession of, the Department;

3) Negotiable certificates of deposit, made payable or assigned to the Department and placed in its possession or held by a federally-insured bank;

4) An irrevocable letter of credit of any bank organized or authorized to transact business in Illinois, in another state of the United States, or in the United States by national charter, payable only to the Department upon presentation provided that if the bank does not have an office for collection in Illinois, there shall be a confirming bank designated with an office in Illinois that is authorized to accept, negotiate and pay the letter upon presentation in Illinois; or

5) Other investment-grade rated securities having a rating of AAA, AA, or A or an equivalent rating issued by a nationally recognized securities rating service, endorsed to the order of, and placed in the possession of the Department.

(Source: Amended at 19 Ill. Reg. \_\_\_\_\_, effective \_\_\_\_\_)

## Section 1800.20 Surety Bonds

a) A surety bond shall be executed by the operator and a corporate surety licensed to do business in Illinois.

b) Surety bonds shall be subject to the following conditions:

1) The Department shall not accept the bond of a surety company unless the surety company is licensed to do business in the State of Illinois as surety and bond shall not be cancellable by the surety at any time for any reason including, but not limited to, non-payment of premiums or bankruptcy of the permittee during the period of liability. Surety bond coverage for permitted lands not disturbed shall be cancelled if the surety gives at least ninety (90) days notice to the Department of the intent to cancel prior to cancellation. Such notice shall be by certified mail and shall not be effective until received by the Department. Cancellation shall not be effective for lands subject to bond coverage which have already been disturbed or are disturbed after receipt of notice, but prior to approval by the Department. The Department may allow continuation of surface coal mining and reclamation operations on the land for which the bond is cancelled only if a replacement bond is filed by the permittee prior to the cancellation date, or the permit is amended so that the surface coal mining operations approved under the permit are reduced to the degree necessary to cover all the costs attributable to the completion of reclamation operations on the reduced permit area in accordance with

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Section 1800.11(b)(2).

2) The Department will not accept a surety company's bond in excess of the company's maximum single obligation as provided by Section 144 of the Illinois Insurance Code (Ill. Rev. Stat. 1985, Ch. 73, par. 15617) unless the surety company satisfied the requirements prescribed by that provision for exceeding that limit;

3) The Department shall not accept surety bonds from a surety company for any person for all permits held by that person in excess of three (3) times the company's maximum single obligation as provided by Section 144 of the Illinois Insurance Code (Ill. Rev. Stat. 1985, Ch. 73, par. 15617);

4) The Department may provide in the bond that the amount shall be confessed to judgment upon forfeiture;

5) The bond shall provide that the surety and the permittee shall be jointly and severally liable;

(Source: Amended at 19 Ill. Reg. \_\_\_\_\_, effective \_\_\_\_\_)

## Section 1800.21 Collateral Bonds

a) Collateral bonds, except for letters of credit and cash accounts, shall be subject to the following conditions:

1) The Department shall keep custody of collateral deposited by the applicant until authorized for release or replacement as provided in Sections 1800.30 and 1800.40.

2) The Department shall value collateral at its current market value, not at face value.

3) The Department shall require that certificates of deposit be made payable to or assigned to the Department both in writing and upon the records of the bank issuing the certificates. If assigned, the Department shall require the banks issuing these certificates to waive all rights of setoff or liens against those certificates.

4) The Department shall not accept an individual certificate of deposit in an amount in excess of one hundred thousand dollars (\$100,000) or the maximum insurable amount as determined by the Federal Deposit Insurance Corporation or the Federal Savings and Loan Insurance Corporation.

b) Letters of credit shall be subject to the following conditions:

1) The letter may only be issued by a bank organized or authorized to do business in the United States in Illinois, in another state of the United States, or in the United States by national charter ("issuing bank"). If the issuing bank does not have an office for collection in Illinois, there shall be a confirming bank designated with an office in Illinois that is authorized to accept, negotiate and pay the letter upon presentation in Illinois.

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- 2) Letters of credit shall be irrevocable during their terms. A letter of credit used as security in areas requiring continuous bond coverage shall be forfeited and shall be collected by the Department if not replaced by other suitable bond or letter of credit at least thirty (30) days before its expiration date.
  - 3) The letter of credit shall be payable to the Department upon demand, in part or in full, upon receipt from the Department of a notice of forfeiture issued in accordance with Section 1800.50.
  - 4) The Department shall not accept a letter of credit in excess of ten percent (10%) of the issuing bank's total capital and surplus accounts, as certified by the President of the bank providing the letter of credit and as evidenced by the most recent quarterly Call Report provided to the Federal Deposit Insurance Corporation. The ten percent (10%) limit, as used in this subsection, shall be a cumulative total of all letters of credit submitted to the Department by any one issuing bank.
  - 5) The letter of credit shall provide on its face that the Department, its lawful assigns, or the attorneys for the Department or its assigns, may sue, waive notice and process, appear on behalf of, and confess judgment against the issuing bank (and any confirming bank) in the event that the letter of credit is dishonored. The letter of credit shall be deemed to be made in Sangamon County, Illinois, for the purpose of enforcement and any actions thereon shall be enforceable in the Courts of Illinois, and shall be construed under Illinois law.
- c) Cash accounts shall be subject to the following conditions:
- 1) The Department may authorize the permittee to supplement the bond through the establishment of a cash account in one or more federally-insured or equivalently protected accounts made payable upon demand to, or deposited directly with, the Department. The total bond including the cash account shall not be less than the amount required under terms of performance bonds including any adjustments, less amounts released in accordance with Section 1800.40.
  - 2) Any interest paid on a cash account shall be retained in the account and applied to the bond value of the account unless the Department has approved the payment of interest to the permittee.
  - 3) Certificates of deposit may be substituted for a cash account in accordance with subsection (a).
  - 4) The Department shall not accept an individual cash account in an amount in excess of one hundred thousand dollars (\$100,000) or the maximum insurable amount as determined by the Federal Deposit Insurance Corporation or the Federal Savings and Loan Insurance Corporation.
- d) Bond value of collateral.
- 1) The estimated bond value of all collateral posted as assurance under Section 1800.21 shall be subject to a margin which is the ratio of bond value to market value, as determined by the

## DEPARTMENT OF MINES AND MINERALS

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- Department. The margin shall reflect legal and liquidation fees, as well as value depreciation, marketability, and fluctuations which might affect the net cash available to the Department to complete reclamation.
- 2) The bond value of collateral may be evaluated at any time, but it shall be evaluated as part of permit renewal and, if necessary, the performance bond amount increased or decreased. In no case shall the bond value of collateral exceed the market value.
  - e) Persons with an interest in collateral posted as a bond, and who desire notification of actions pursuant to the bond, shall request the notification in writing to the Department at the time collateral is offered.

(Source: Amended at 19 Ill. Reg. \_\_\_\_\_, effective \_\_\_\_\_)



## DEPARTMENT OF MINES AND MINERALS

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- 1) Heading of the Part: Civil Penalties
- 2) Code Citation: 62 Ill. Adm. Code 1845
- 3) Section Number: Proposed Action:  
1845.12 Amend
- 4) Statutory Authority: Implementing and authorized by the Surface Coal Mining Land Conservation and Reclamation Act (Ill. Rev. Stat. 1991, ch. 96 1/2, pars. 7901.01 et seq.) [225 ILCS 720].
- 5) A complete description of the subjects and issues involved: Section 1845.12 governs when civil penalties will be assessed for notices of violation and cessation orders. On September 3, 1993, the Office of Surface Mining Reclamation and Enforcement (OSMRE) disapproved current subsection (d), stating that "Illinois must consider all civil penalty criteria, not just history of previous violations, in determining whether to require payment of a penalty of less than \$1,100.00." 58 Fed. Reg. 46851 (September 3, 1993). The proposed amendment to subsection (d) addresses OSMRE's concerns.

- 6) Will this proposed rule replace an emergency rule currently in effect? No
- 7) Does this rulemaking contain an automatic repeal date? No
- 8) Do these proposed amendments contain incorporations by reference? No
- 9) Are there any other amendments pending on this Part? No

- 10) Statement of Statewide Policy Objectives: The proposed amendments will have no impacts upon local units of government.

- 11) Time, Place, and Manner in which interested persons may comment on this proposed rulemaking: Written comments may be submitted within 45 days of the publication of this notice to:

Karen Jacobs, Legal Counsel  
Illinois Department of Mines and Minerals  
300 West Jefferson, Suite 300  
Springfield, IL 62791-0137  
(217) 782-6791

Commenters must provide a name and address. Comments must be directed to a specific subsection and must be made on a separate sheet of 8 1/2 x 11 inch paper.

Comments may include data, views, arguments or any documents relevant to the proposals noted above in the Description of Subjects and Issues

## DEPARTMENT OF MINES AND MINERALS

## NOTICE OF PROPOSED AMENDMENTS

involved. All comments are due at the above address no later than 45 days after publication of this notice. Comments received thereafter will not be considered in this rulemaking.

12) Initial Regulatory Flexibility Analysis:

A) Types of small businesses affected: This rulemaking does not affect small businesses.

B) Reporting, bookkeeping or other procedures required for compliance: None

C) Types of professional skills necessary for compliance: None

- 13) State reason(s) for the rulemaking if it was not included in either of the two (2) most recent regulatory agendas: This rulemaking was included in the regulatory agenda published at 19 Ill. Reg. 659-684 (January 20, 1995).

The full text of the Proposed Amendments begins on the next page.

## DEPARTMENT OF MINES AND MINERALS

## NOTICE OF PROPOSED AMENDMENTS

## TITLE 62: MINING

## CHAPTER I: DEPARTMENT OF MINES AND MINERALS

PART 1845  
CIVIL PENALTIES

- Section  
1845.1 Scope  
1845.2 Objective  
1845.11 How Assessments are Made  
1845.12 When Penalty Will be Assessed  
1845.13 Factors to be Considered in Assessing Civil Penalties  
1845.14 Determination of Amount of Penalty: Assessment of Separate Violations for Each Day (Repealed)  
1845.15 Assessment of Separate Civil Penalties for Each Day  
1845.17 Procedures for Assessment of Civil Penalties  
1845.18 Payment of Assessment; Hearing Request Deadline  
1845.19 Procedures for Hearing (Repealed)  
1845.20 Final Assessment and Payment of Penalty

AUTHORITY: Implementing and authorized by the Surface Coal Mining Land Conservation and Reclamation Act (Ill. Rev. Stat. 1991, ch. 96 1/2, pars. 7901.01 et seq.) [225 ILCS 720].

SOURCE: Adopted at 4 Ill. Reg. 37, p. 1, effective June 1, 1982; amended at 6 Ill. Reg. 1, effective June 1, 1982; codified at 8 Ill. Reg. 9365; amended at 11 Ill. Reg. 8014, effective July 1, 1987; amended at 17 Ill. Reg. 10926, effective July 1, 1993; amended at 19 Ill. Reg. \_\_\_\_\_, effective \_\_\_\_\_.

## Section 1845.12 When Penalty Will be Assessed

- a) The Department shall assess a penalty for each cessation order.
- b) The Department shall assess a penalty for a notice of violation if an assessment of one thousand, one hundred dollars (\$1,100.00) or more is derived in accordance with Section 1845.13
- c) Except as provided in subsection (d) below, a penalty shall not be assessed for a notice of violation if an assessment of less than \$1,100 is derived in accordance with Section 1845.13.
- d) If the assessment for a notice of violation is below \$1,100, the penalty shall be assessed the Department shall take into account the factors set forth in Section 1845.13 in determining whether to assess the penalty if the permittee is assessed a second or more related violation within a twelve (12) month period, a penalty shall be assessed.

(Source: Amended at 19 Ill. Reg. \_\_\_\_\_, effective \_\_\_\_\_.)

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## TITLE 62: MINING

## CHAPTER I: DEPARTMENT OF MINES AND MINERALS

PART 1845  
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- Section  
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1845.20 Final Assessment and Payment of Penalty

AUTHORITY: Implementing and authorized by the Surface Coal Mining Land Conservation and Reclamation Act (Ill. Rev. Stat. 1991, ch. 96 1/2, pars. 7901.01 et seq.) [225 ILCS 720].

SOURCE: Adopted at 4 Ill. Reg. 37, p. 1, effective June 1, 1982; amended at 6 Ill. Reg. 1, effective June 1, 1982; codified at 8 Ill. Reg. 9365; amended at 11 Ill. Reg. 8014, effective July 1, 1987; amended at 17 Ill. Reg. 10926, effective July 1, 1993; amended at 19 Ill. Reg. \_\_\_\_\_, effective \_\_\_\_\_.

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- a) The Department shall assess a penalty for each cessation order.
- b) The Department shall assess a penalty for a notice of violation if an assessment of one thousand, one hundred dollars (\$1,100.00) or more is derived in accordance with Section 1845.13
- c) Except as provided in subsection (d) below, a penalty shall not be assessed for a notice of violation if an assessment of less than \$1,100 is derived in accordance with Section 1845.13.
- d) If the assessment for a notice of violation is below \$1,100, the penalty shall be assessed the Department shall take into account the factors set forth in Section 1845.13 in determining whether to assess the penalty if the permittee is assessed a second or more related violation within a twelve (12) month period, a penalty shall be assessed.

(Source: Amended at 19 Ill. Reg. \_\_\_\_\_, effective \_\_\_\_\_.)

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- 1) Heading of the Part: Department Inspections

- 2) Code Citation: 62 Ill. Adm. Code 1840

- 3) Section Number: Proposed Action:

1840.11

Amend

1840.17

Amend

- 4) Statutory Authority: Implementing and authorized by the Surface Coal Mining Land Conservation and Reclamation Act (Ill. Rev. Stat. 1991, ch. 96 1/2, pars. 7901.01 et seq.) [225 ILCS 720].

- 5) A complete description of the subjects and issues involved:

Section 1340.11 sets forth requirements for Department inspections of permitted sites. A heading is proposed to be added at subsection (d). New subsections (g) and (h), which address inspections at abandoned sites, are proposed. These proposed amendments closely mirror counterpart federal regulations published at 59 Fed. Reg. 60876 (November 28, 1994).

Section 1840.17 sets forth provisions for informal review of decisions not to inspect or enforce. Subsection (a) is proposed to be revised by establishing a 30 day time period within which to request review of the Department's decision not to inspect or enforce where a citizen's request for state inspection has been received. A time limit is necessary for administrative efficiency and to ensure that potential issues do not linger for indeterminate time periods and become moot, yet reviewable.

Subsection (c) is proposed to be amended to refer to the proper administrative review provision of the regulations, rather than Section 8.07 of the Surface Coal Mining Land Conservation and Reclamation Act (State Act) [225 ILCS 720/8.07]. Section 8.07 of the State Act contains provisions for administrative review of enforcement notices or orders. The reference thereto in the current regulations is inappropriate, because administrative review of a decision not to inspect or enforce is not the type of notice or order scenario covered by Section 8.07.

- 6) Will this proposed rule replace an emergency rule currently in effect?  
No

- 7) Does this rulemaking contain an automatic repeal date? No

- 8) Do these proposed amendments contain incorporations by reference? No

- 9) Are there any other amendments pending on this Part? No

- 10) Statement of Statewide Policy Objectives: The proposed amendments will

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have no impact upon local units of government.

- 11) Time, Place, and Manner in which interested persons may comment on this proposed rulemaking:

Written comments may be submitted within 45 days of the publication of this notice to:

Karen Jacobs, Legal Counsel  
Illinois Department of Mines and Minerals  
370 West Jefferson, Suite 300  
Springfield, IL 62791-0137  
(217)782-6731

Commenters must provide a name and address. Comments must be directed to a specific subsection and must be made on a separate sheet of 8 1/2 x 11 inch paper.

Comments may include data, views, arguments or any documents relevant to the proposals noted above in the Description of Subjects and Issues involved. All comments are due at the above address no later than 45 days after the publication of this notice. Comments received thereafter will not be considered in this rulemaking.

- 12) Initial Regulatory Flexibility Analysis:

A) Types of small businesses affected: This rulemaking does not affect small businesses.

B) Reporting, bookkeeping or other procedures required for compliance: None

C) Types of professional skills necessary for compliance: None

- 1) State reason(s) for the rulemaking if it was not included in either of the two (2) most recent regulatory agendas:

This rulemaking was included in the regulatory agenda published at 19 Ill. Reg. 659-684 (January 20, 1995).

The full text of the Proposed Amendments begins on the next page.



## DEPARTMENT OF MINES AND MINERALS

## NOTICE OF PROPOSED AMENDMENTS

TITLE 62: MINING  
CHAPTER I: DEPARTMENT OF MINES AND MINERALSPART 1840  
DEPARTMENT INSPECTIONS

Section	Scope
1840.1	Monitoring and Reporting
1840.2	Inspections by the Department
1840.11	Right of Entry
1840.12	Availability of Records
1840.14	Citizens' Requests for State Inspections
1840.15	Review of Adequacy and Completeness of Inspections
1840.16	Review of Decision Not to Inspect or Enforce
1840.17	

**AUTHORITY:** Implementing and authorized by the Surface Coal Mining Land Conservation and Reclamation Act (Ill. Rev. Stat. 1991, ch. 96 1/2, pars. 7901.01 et seq.) [225 ILCS 720].

**SOURCE:** Adopted at 4 Ill. Reg. 37, p. 1, effective June 1, 1982; codified at 8 Ill. Reg. 12288; amended at 11 Ill. Reg. 8036, effective July 1, 1987; amended at 19 Ill. Reg. \_\_\_\_\_, effective \_\_\_\_\_.

**Section 1840.11 Inspections by the Department**

- a) The Department shall conduct an average of at least one (1) partial inspection per month of each surface coal mining and reclamation operation under its jurisdiction and shall conduct partial inspections of each inactive surface coal mining and reclamation operation under its jurisdiction to ensure enforcement of the approved State program. A partial inspection is an on-site or aerial review of a person's compliance with any of the permit conditions and requirements imposed under the Federal Act, State Act and 62 Ill. Adm. Code 1700 - 1850. The inspector shall collect evidence of any violation of the Federal Act, the State Act or 62 Ill. Adm. Code 1700 - 1850 observed.
- b) The Department shall conduct an average of at least one (1) complete inspection per calendar quarter of each surface coal mining and reclamation operation under its jurisdiction. A complete inspection is an on-site review of a person's compliance with all permit conditions and requirements imposed under the Federal Act, the State Act and 62 Ill. Adm. Code 1700 - 1850 within the entire area disturbed, impacted or affected by surface coal mining and reclamation operations. The inspector shall collect evidence of any violation of the Federal Act, State Act or 62 Ill. Adm. Code 1700 - 1850 observed.
- c) The Department shall conduct periodic inspections of all coal exploration operations required to comply with the Federal Act, the

## DEPARTMENT OF MINES AND MINERALS

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State Act, and 62 Ill. Adm. Code 1700 - 1850. The inspector shall collect evidence of any violation of the Federal Act, State Act, or 62 Ill. Adm. Code 1700 - 1850 observed.

- d) Aerial inspections.
  - 1) Aerial inspections shall be conducted in a manner which reasonably ensures the identification and documentation of conditions at each surface coal mining and reclamation site inspected.
  - 2) Any potential violation observed during an aerial inspection shall be investigated on site within three days; provided, that any indication of a condition, practice or violation constituting cause for the issuance of a cessation order under 62 Ill. Adm. Code 1843.11 shall be investigated on site immediately. An on-site investigation of a potential violation observed during an aerial inspection shall not be considered to be an additional partial or complete inspection for the purposes of subsections (a) and (b).
- e) The inspections required under subsections (a), (b), (c) and (d) shall:
  - 1) Be carried out on an irregular basis, so as to monitor compliance at all operations, including those which operate nights, weekends, or holidays;
  - 2) Occur without prior notice to the permittee or any agent or employee of such permittee, except for necessary on-site meetings; and
  - 3) Include the prompt filing of inspection reports adequate to enforce the requirements of the Federal Act, State Act, and 62 Ill. Adm. Code 1700 - 1850.
- f) For the purposes of Section 1840.11, an inactive surface coal mining and reclamation operation is one for which:
  - 1) The Department has secured from the permittee the written notice provided for under 62 Ill. Adm. Code 1816.131(b) or 1817.131(b); or
  - 2) Reclamation Phase II as defined at 62 Ill. Adm. Code 1800.40 has been completed and the liability of the permittee has been reduced by the Department in accordance with the State program.
- g) Abandoned site means a surface coal mining and reclamation operation for which the Department has found in writing that:
  - 1) All surface and underground coal mining and reclamation activities at the site have ceased;
  - 2) The Department has issued at least one notice of violation or the initial program equivalent, and either:
    - A) Is unable to serve the notice despite diligent efforts to do so; or
    - B) The notice was served and has progressed to a failure-to-abate cessation order or the initial program equivalent;
  - 3) The Department:

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- A) Is taking action to ensure that the permittee and operator, and owners and controllers of the permittee and operator, will be precluded from receiving future permits while violations continue at the site; and
- B) Is taking action pursuant to Sections 8.04(e), 8.04(f), 8.06(d) or 8.08 of the State Act [25 ILCS 720/8.04(e), 8.04(f), 8.06(d), 8.08] to ensure that abatement occurs or that there will not be a recurrence of the failure-to-abate, except where after evaluating the circumstances it concludes that further enforcement offers little or no likelihood of successfully compelling abatement or recovering any reclamation costs; and

## 4) Where the site is, or was, permitted and bonded:

- A) The permit has either expired or been revoked; and
- B) The Department has initiated and is diligently pursuing forfeiture of, or has forfeited, any available performance bond.

- h) In lieu of the inspection frequency established in subsections (a) and (b) of this Section, the Department shall inspect each abandoned site on a set frequency commensurate with the public health and safety and environmental considerations present at each specific site, but in no case shall the inspection frequency be set at less than one complete inspection per calendar year.

- 1) In selecting an alternate inspection frequency authorized under this subsection, the Department shall first conduct a complete inspection of the abandoned site and provide public notice under subsection (h)(2) below. Following the inspection and public notice, the Department shall prepare and maintain for public review a written finding justifying the alternative inspection frequency selected. This written finding shall justify the new inspection frequency by affirmatively addressing in detail all of the following criteria:

- A) How the site meets each of the criteria under the definition of an abandoned site under subsection (g) above and thereby qualifies for a reduction in inspection frequency;
- B) Whether, and to what extent, there exists on the site impoundments, earthen structures or other conditions that pose, or may reasonably be expected to ripen into, imminent dangers to the health or safety of the public or significant environmental harm to land, air or water resources;
- C) The extent to which existing impoundments or earthen structures were constructed and certified in accordance with prudent engineering designs approved in the permit;
- D) The degree to which erosion and sediment control is present and functioning;
- E) The extent to which the site is located near or above urbanized areas, communities, occupied dwellings, schools and other public or commercial buildings and facilities;

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- F) The extent of reclamation completed prior to abandonment and the degree of stability of unreclaimed areas, taking into consideration the physical characteristics of the land mined and the extent of settlement or revegetation that has occurred naturally with them; and
- G) Based on a review of the complete and partial inspection report record for the site during at least the last two consecutive years, the rate at which adverse environmental or public health and safety conditions have and can be expected to progressively deteriorate.

## 2) The public notice and opportunity to comment required under subsection (h)(1) above shall be provided as follows:

- A) The Department shall place a notice in a local newspaper of general circulation in the locality of the abandoned site providing the public with a 30-day period in which to submit written comments.

- B) The public notice shall contain the permittee's name, the permit number, the precise location of the land affected, the inspection frequency proposed, the general reasons for reducing the inspection frequency, the bond status of the permit, the telephone number and address of the Department where written comments on the reduced inspection frequency may be submitted and the closing date of the comment period.

(Source: Amended at 19 Ill. Reg. \_\_\_\_\_, effective \_\_\_\_\_)

## Section 1840.17 Review of Decision Not to Inspect or Enforce

- a) Any person who is or may be adversely affected by a coal exploration operation or surface coal mining and reclamation operation may ask the Director to review informally an authorized representative's decision not to inspect or take appropriate enforcement action with respect to any violation alleged by that person in a request for State inspection under Section 1840.15. The request for review shall be in writing and include a statement of how the person is or may be adversely affected and why the decision merits review. The request for review must be submitted within thirty (30) days from the date the citizen is notified of the authorized representative's decision. Failure to file a request for informal review within this thirty (30) day time period shall result in a waiver of the right to such review.
- b) The Supervisor of the Land Reclamation Division shall conduct the review and inform the person, in writing, of the results of the review within thirty (30) days of his or her receipt of the request. The person alleged to be in violation shall also be given a copy of the results of the review, except that the name of the citizen shall not be disclosed unless confidentiality has been waived or disclosure is required under State law.

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- c) Informal review under this Section shall not affect any right to formal review under ~~Section 8-07-of-the-State-Act~~ 62 Ill. Adm. Code 1847.3 or to a citizen's suit under Section 8.05 of the State Act [225 ILCS 720/8.05].

(Source: Amended at 19 Ill. Reg. \_\_\_\_\_, effective \_\_\_\_\_)

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- 1) Heading of the Part: General
- 2) Code Citation: 62 Ill. Adm. Code 1700
- 3) Section Number: Proposed Action:  
1700.11 Amend  
1700.16 Amend
- 4) Statutory Authority: Implementing and authorized by the Surface Coal Mining Land Conservation and Reclamation Act (Ill. Rev. Stat. 1991, c. 96 1/2, pars. 7901.01 et seq.) [225 ILCS 720].
- 5) A complete description of the subjects and issues involved:  
Section 1700.11 sets forth the applicability of 62 Ill. Adm. Code 1700 through 1850 to coal exploration and mining activities. Statutory and regulatory citations are proposed to be updated. In addition, subsections (f)(1) and (f)(2), regarding termination of jurisdiction, are proposed to be added. These amendments mirror federal counterparts at 30 CFR 1700.11(d)(1) and (d)(2).  
Section 9.07 of the Surface Coal Mining Land Conservation and Reclamation Act [225 ILCS 720/9.07] was recently amended to require that fees collected by the Department be deposited in the Coal Mining Regulatory Fund, rather than the General Revenue Fund. Section 1700.16 is therefore being amended to reflect this statutory change.

- 6) Will this proposed rule replace an emergency rule currently in effect?  
No

- 7) Does this rulemaking contain an automatic repeal date? No

- 8) Do these proposed amendments contain incorporations by reference? No

- 9) Are there any other amendments pending on this Part? No

- 10) Statement of Statewide Policy Objectives: The proposed amendments will have no impact on local units of government.

- 11) Time, Place, and Manner in which interested persons may comment on this proposed rulemaking:

Written comments may be submitted within 45 days of the publication of this notice to:

Karen Jacobs, Legal Counsel  
Illinois Department of Mines and Minerals



## DEPARTMENT OF MINES AND MINERALS

## NOTICE OF PROPOSED AMENDMENTS

300 West Jefferson, Suite 300  
Springfield, IL 62791-0137  
(217) 782-6791

Comments must provide a name and address. Comments must be directed to a specific subsection and must be made on a separate sheet of 8 1/2 x 11 inch paper.

Comments may include data, views, arguments or any documents relevant to the proposals noted above in the Description of Subjects and Issues involved. All comments are due at the above address no later than 45 days after the publication of this notice. Comments received thereafter will not be considered in this rulemaking.

12) Initial Regulatory Flexibility Analysis:

A) Types of small businesses affected: This rulemaking does not affect small businesses.

B) Reporting, bookkeeping or other procedures required for compliance: None

C) Types of professional skills necessary for compliance: None

13) State reason(s) for the rulemaking if it was not included in either of the two (2) most recent regulatory agendas:

This rulemaking was included in the regulatory agenda published at 19 Ill. Reg. 659-684 (January 20, 1995).

The full text of the Proposed Amendments begins on the next page.

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TITLE 62: MINING  
CHAPTER I: DEPARTMENT OF MINES AND MINERALS

PART 1700  
GENERAL

## Section

1700.11 Applicability  
1700.12 Petitions to Initiate Rulemaking  
1700.13 Notice of Citizen Suits  
1700.14 Availability of Records  
1700.15 Computation of Time  
1700.16 Fees and Forfeitures  
1700.17 Administration  
1700.18 Advisory Council on Reclamation

**AUTHORITY:** Implementing and authorized by the Surface Coal Mining Land Conservation and Reclamation Act (Ill. Rev. Stat. 1991, ch. 96 1/2, pars. 7901.01 et seq.) [225 ILCS 720].

**SOURCE:** Adopted at 4 Ill. Reg. 37, p. 1, effective June 1, 1982; amended at 6 Ill. Reg. 1, effective June 1, 1982; codified at 8 Ill. Reg. 9347; amended at 11 Ill. Reg. 8051, effective July 1, 1987; amended at 14 Ill. Reg. 11795, effective January 1, 1991; amended at 15 Ill. Reg. 17136, effective January 1, 1992; amended at 19 Ill. Reg. \_\_\_\_\_, effective \_\_\_\_\_.

## Section 1700.11 Applicability

a) The requirements of 62 Ill. Adm. Code 1700-1850 apply to all coal exploration and surface coal mining and reclamation operations, except:

1) The extraction of coal by a landowner or lessee for the landowner's or lessee's own noncommercial use from land owned or leased by him or her where two hundred and fifty (250) tons or less of coal are removed in any twelve (12) consecutive months. Noncommercial use does not include the extraction of coal by one (1) unit of an integrated company or other business or nonprofit entity which uses the coal in its own manufacturing or power plants;

2) The extraction of coal incidental to the extraction of other minerals where coal does not exceed sixteen and two-thirds percent (16 2/3%) of the total mineral tonnage mined for purposes of commercial use or sale in accordance with 62 Ill. Adm. Code 1702;

3) Coal exploration on lands subject to the requirements of 43 CFR 3480-3487 (~~1989~~ 1994); and

4) The extraction of coal on Federal lands except to the extent provided under a cooperative agreement with the United States.

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Section 1.06 of the Surface Coal Mining Land Conservation and Reclamation Act (~~111:--Rev:--Stat:--1989;--ch:--96-1/27;--par: 7901-06(d)†~~ [225 ILCS 720/1.06(d)]).

b) The Illinois Department of Mines and Minerals (Department) shall, within sixty (60) days of a request from any person who intends to conduct surface coal mining operations, make a written determination whether the operation is exempt under subsection (a). The Department shall, within thirty (30) days of receipt of a request for exemption under subsection (a), publish notice of the request in a newspaper of general circulation in the area of the proposed exempted operation and send the request to interagency members. Prior to the time a determination is made, any person may submit, and the Department shall consider, any written information relevant to the determination. A person requesting that an operation be declared exempt shall have the burden of establishing the exemption. If a written determination of exemption is reversed through subsequent administrative or judicial action, any person who has made a complete and accurate request for an exemption and relied upon the determination shall not be cited for violations which occurred prior to the date of the reversal.

c) The requirements of 62 Ill. Adm. Code 1800 through 1850 (the permanent program regulations) apply to all surface coal mining and reclamation operations for which the surface coal mining operation is required to obtain a permit under the Surface Coal Mining Land Conservation and Reclamation Act (the State Act) (~~111:--Rev:--Stat:--1989;--ch:--96-1/27 par:--7901-01--et-seq†~~ [225 ILCS 720] on and after February 1, 1983. 62 Ill. Adm. Code 1815 and 1840 through 1846 apply to both coal exploration operations and surface coal mining and reclamation operations regardless of whether a permit is required, except as otherwise specified in those rules.

d) Existing structures

1) Each structure used in connection with a coal exploration or surface coal mining and reclamation operations shall comply with the performance standards and the design requirements of the permanent program regulations except that:

A) The Department shall exempt an existing structure which meets the performance standards of the permanent program regulations but does not meet the design requirements of the permanent program regulations from meeting those design requirements. The Department shall grant this exemption as part of the permit application process after both obtaining the information 62 Ill. Adm. Code 1780.12 or 1784.12 require and after the Department makes the findings required in 62 Ill. Adm. Code 1773.15(c)(6); and

B) If a performance standard in 62 Ill. Adm. Code 280 (interim program regulations) is at least as stringent as the comparable performance standard of the permanent program regulations, an existing structure which meets the performance standards of the interim program regulations

shall be exempted by the Department from meeting the design requirements of the permanent program regulations. The Department will grant this exemption as part of the permit application process after obtaining the information 62 Ill. Adm. Code 1780.12 or 1784.12 require and after the Department makes the findings required in 62 Ill. Adm. Code 1773.15(c)(6).

2) The exemptions provided in subsections (d)(1)(A) and (d)(1)(B) shall not apply to:

A) The requirements for existing and new waste piles used either temporarily or permanently as dams or embankments; and

B) The requirements to restore the approximate original contour of the land.

3) The permittee shall modify or reconstruct an existing structure which meets a performance standard of the interim program regulations which is incompatible with the permanent program regulations to meet the design standard of the permanent program regulations, pursuant to 62 Ill. Adm. Code 1773.15(c)(6), 1780.12 and 1784.12.

4) The permittee shall modify or reconstruct an existing structure which does not meet the performance standards of the interim program regulations and which the applicant proposes to use in connection with a coal exploration or surface coal mining and reclamation operation to meet the design standards of the permanent program regulations prior to issuance of the permit.

e) Effective dates

1) Any person conducting coal exploration on or after February 1, 1983, shall either file a notice of intention to explore or obtain approval of the Department, as required by 62 Ill. Adm. Code 1772.

2) Coal exploration performance standards in 62 Ill. Adm. Code 1815 apply after August 3, 1982.

f) Termination of jurisdiction

1) The Department may terminate its jurisdiction under the regulatory program over the reclaimed site of a completed surface coal mining and reclamation operation, or increment thereof, when:

A) The Department determines in writing that under the initial program, all requirements imposed under 62 Ill. Adm. Code 280 have been successfully completed; or

B) The Department determines in writing that under the permanent program, all requirements imposed under the regulatory program have been successfully completed or where a performance bond was required, the Department has made a final decision in accordance with 62 Ill. Adm. Code 1800.40 to release the performance bond fully.

2) Following a termination under subsection (f)(1) above, the

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Department shall reassert jurisdiction under the regulatory program over a site if it is demonstrated that the bond release or written determination referred to in subsection (f)(1) above was based upon fraud, collusion or misrepresentation of a material fact.

(Source: Amended at 19 Ill. Reg. \_\_\_\_\_, effective \_\_\_\_\_)

**Section 1700.16 Fees and Forfeitures**

- a) All fees collected under the provision of the State Act shall be deposited in the Coal Mining Regulatory Fund ~~general-revenue-fund~~ in the State Treasury.
- b) All forfeitures collected under the provision of the State Act shall be deposited in the reclamation fund to be used for the purposes for which the bond was issued. Any forfeited funds remaining after the completion of reclamation as required by the permit and the State Act and regulations shall be returned to the party from whom the funds were collected.

(Source: Amended at 19 Ill. Reg. \_\_\_\_\_, effective \_\_\_\_\_)

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- 1) Heading of the Part: General Definitions

- 2) Code Citation: 62 Ill. Adm. Code 1701

- 3) Section Number: Proposed Action:

1701.Appendix A Amend

- 4) Statutory Authority: Implementing and authorized by the Surface Coal Mining Land Conservation and Reclamation Act (Ill. Rev. Stat. 1991, ch. 96 1/2, pars. 7901.01 et seq.) [225 ILCS 720].

- 5) A complete description of the subjects and issues involved:

Section 1701.Appendix A sets forth the Department's general definitions. The definition of substantially disturb, for purposes of coal exploration, is proposed to be revised to exclude impacts to the air from the criteria for substantial disturbance. The current definition was based on the original counterpart federal definition, which was changed in 1983 by removing the word air from such definition. The proposed change therefore makes the definition consistent with its federal counterpart.

The definition of historic lands is proposed to be revised in order to clarify the existing ambiguity between 62 Ill. Adm. Code Parts 1761, 1762 and 1764. The proposed revision is consistent with the counterpart federal definition.

A definition of land eligible for remaining is proposed to be added in order to implement Section 3.15(e) of the State Act (225 ILCS 720/3.15(e)), and for consistency with proposed federal regulations at 59 Fed. Reg. 28744 (June 2, 1994).

A definition of wetland is being proposed because wetland regulations are being proposed in Parts 1816 and 1817. The proposed definition is taken from the Interagency Wetland Policy Act of 1989 [20 ILCS 830/1-6]. Using this definition will enable the Department to be consistent with other State agencies in this regard. This definition does not appear to be inconsistent with any provisions of the Department's current regulatory program.

The following definitions are being proposed in order to clarify terms used in revisions to 62 Ill. Adm. Code Part 1773 concerning ownership and control and the Applicant Violator System: Applicant Violator System, Federal Violation Notice, Ownership or Control Link, State Violation Notice, Violation Notice.

- 6) Will this proposed rule replace an emergency rule currently in effect? No



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- 7) Does this rulemaking contain an automatic repeal date? No
- 8) Do these proposed amendments contain incorporations by reference? No
- 9) Are there any other amendments pending on this Part? No

10) Statement of Statewide Policy Objectives: The proposed amendments will have no impacts upon local units of government.

11) Time, Place, and Manner in which interested persons may comment on this proposed rulemaking: Written comments may be submitted within 45 days of the publication of this notice to:

Karen Jacobs, Legal Counsel  
Illinois Department of Mines and Minerals  
300 West Jefferson, Suite 300  
Springfield, IL 62791-0137  
(217) 782-6791

Commentors must provide a name and address. Comments must be directed to a specific subsection and must be made on a separate sheet of 8 1/2 x 11 inch paper.

Comments may include data, views, arguments or any documents relevant to the proposals noted above in the Description of Subjects and Issues involved. All comments are due at the above address no later than 45 days after the publication of this notice. Comments received thereafter will not be considered in this rulemaking.

12) Initial Regulatory Flexibility Analysis:

- A) Types of small businesses affected: None
- B) Reporting, bookkeeping or other procedures required for compliance:  
None
- C) Types of professional skills necessary for compliance: None
- 13) State reason(s) for the rulemaking if it was not included in either of the two (2) most recent regulatory agendas: This rulemaking was included in the regulatory agenda published at 19 Ill. Reg. 659-684 (January 20, 1995).

The full text of the Proposed Amendments begins on the next page.

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TITLE 62: MINING  
CHAPTER I: DEPARTMENT OF MINES AND MINERALS

PART 1701  
GENERAL DEFINITIONS

Section  
1701.5 Definitions  
APPENDIX A Definitions

AUTHORITY: Implementing and authorized by the Surface Coal Mining Land Conservation and Reclamation Act (Ill. Rev. Stat. 1991, ch. 96 1/2, pars. 7901.01 et seq.) [225 ILCS 720].

SOURCE: Adopted at 4 Ill. Reg. 37, p. 1, effective June 1, 1982; amended at 6 Ill. Reg. 1, effective June 1, 1982; codified at 8 Ill. Reg. 4932; amended at 11 Ill. Reg. 8075, effective July 1, 1987; amended at 14 Ill. Reg. 11800, effective January 1, 1991; amended at 15 Ill. Reg. 17141, effective January 1, 1992; amended at 17 Ill. Reg. 10947, effective July 1, 1993; amended at 19 Ill. Reg. \_\_\_\_\_, effective \_\_\_\_\_.

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## Section 1701.APPENDIX A Definitions

As used in 62 Ill. Adm. Code 1700 - 1850, the following terms have the specified meanings, except when another meaning is given:

"Acid drainage" means water with a pH of less than 6.0 and in which total acidity exceeds total alkalinity, discharged from an active, inactive or abandoned surface coal mine and reclamation operation or from an area affected by surface coal mining and reclamation operations.

"Acid - forming materials" means earth materials that contain sulfide minerals or other materials which, if exposed to air, water or weather processes, form acids that may create acid drainage.

"Act or Federal Act" means the Surface Mining Control and Reclamation Act of 1977, P.L. 95-87. (30 U.S.C. 1201 et seq.)

"Adjacent area" means the area located outside the permit area, or shadow area, where a resource or resources, determined according to the context in which adjacent area is used, are or reasonably could be expected to be adversely impacted by proposed mining operations.

"Administratively complete application" means an application for permit approval or approval for coal exploration where required, which the Department determines to contain information addressing each application requirement of the regulatory program and to contain all information necessary to initiate processing and public review.

"Affected area" means, with respect to surface mining activities, any land or water upon or in which those activities are conducted or located. With respect to underground mining activities, affected area means: any water or surface land upon which those activities are conducted or located.

"Agricultural use" means the use of any tract of land for the production of animal or vegetable life. The uses include, but are not limited to, the pasturing, grazing, and watering of livestock, and the cropping, cultivation, and harvesting of plants.

"Applicant" means any person seeking a permit; permit revision; renewal; or transfer, assignment or sale from the Department to conduct surface coal mining and reclamation operations or, where required, seeking approval for coal exploration.

"Application" means the documents and other information filed with the Department under these regulations for the issuance of permits; revisions; renewals; and transfer, assignment, or sale of permit

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rights for surface coal mining and reclamation operations or, where required, for coal exploration.

"Approximate original contour" means that surface configuration achieved by backfilling and grading of the mined areas so that the reclaimed area, including any terracing or access roads, closely resembles the general surface configuration of the land prior to mining and blends into and complements the drainage pattern of the surrounding terrain, with all highwalls, and spoil piles and coal refuse piles eliminated. Permanent water impoundments may be permitted where the Department has determined that they comply with 62 Ill. Adm. Code 1816.49 and 1816.56, 1816.133 or 1817.49, 1817.56 and 1817.133. Section 1.03(a)(2) of the Surface Coal Mining Land Conservation and Reclamation Act (Ill. Rev. Stat. 1991, ch. 26 1/2, par. 7901.03(a)(2)) (25 USC 1301.03(a)(2)).

"Aquifer" means a zone, stratum, or group of strata that can store and transmit water in sufficient quantities for specific use.

"Article" means an article of the State Act.

"Auger mining" means a method of mining coal at a cliff or highwall by drilling holes into an exposed coal seam from the cliff or highwall and transporting the coal along an auger bit to the surface.

"Best technology currently available" means equipment, systems, methods, or techniques which will:

prevent, to the extent possible, additional contributions of suspended solids to stream flow or runoff outside the permit area, but in no event result in contributions of suspended solids in excess of requirements set by 62 Ill. Adm. Code 1816.42; and

minimize, to the extent possible, disturbances and adverse impacts on fish, wildlife and related environmental values, and achieve enhancement of those resources where practicable. The term includes equipment, devices, systems, methods, or techniques which are currently available anywhere as determined by the Department, even if they are not in routine use. The term includes, but is not limited to, construction practices, siting requirements, vegetative selection and planting requirements, animal stocking requirements, scheduling of activities and design of sedimentation ponds in accordance with 62 Ill. Adm. Code 1816 and 1817.

"Boxcut" means the first open cut resulting in the placing of overburden on unmined land adjacent to the initial pit.

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"Cemetery" means any area of land where human bodies are interred.

"Coal" means combustible carbonaceous rock, classified as anthracite, bituminous, subbituminous, or lignite by ASTM Standard D 388-84 found at pp. 247-252 in Vol 5.05 of the Annual Book of ASTM Standards published by the American Society for Testing and Materials, 1916 Race St., Philadelphia PA 19103.

"Coal exploration" means the field gathering of:

surface or subsurface geologic, physical, or chemical data by mapping, trenching, drilling, geophysical, or other techniques necessary to determine the quality and quantity of overburden and coal of an area; or

the gathering of environmental data to establish the conditions of an area before beginning surface coal mining and reclamation operations under the requirements of 62 Ill. Adm. Code 1700 - 1850.

"Coal mine waste" means coal processing waste and underground development waste.

"Coal mining operation" means the business of developing, producing, preparing or loading bituminous coal, subbituminous coal, anthracite, or lignite, or of reclaiming the area upon which such activities occur.

"Coal processing or coal preparation" means chemical or physical processing and the cleaning, concentrating, or other processing or preparation of coal.

"Coal preparation plant" means a facility where coal is subjected to chemical or physical processing or the cleaning, concentrating, or other processing or preparation. It includes facilities associated with coal preparation activities including, but not limited to the following: loading facilities; storage and stockpile facilities; sheds, shops and other buildings; water treatment and water storage facilities; settling basins and impoundments; coal processing and other waste disposal areas.

"Coal processing waste" means earth materials which are separated and wasted from the product coal during cleaning, concentrating, or other processing or preparation of coal.

"Combustible material" means organic material that is capable of burning, either by fire or through oxidation, accompanied by the evolution of heat and a significant temperature rise.

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"Community or institutional building" means any structure, other than a public building or an occupied dwelling, which is used primarily for functions of community groups; used for an educational, cultural, historic, religious, scientific, correctional, mental-health or physical-health care facility; or is used for public services, including, but not limited to, water supply, power generation or sewage treatment.

"Compaction" means increasing the density of a material by reducing the voids between the particles and is generally accomplished by controlled placement and mechanical effort such as from repeated application of wheel, track, or roller loads from heavy equipment.

"Complete and accurate application" means an application for permit approval or approval for coal exploration where required, which the Department determines contains all information which the State Act and 62 Ill. Adm. Code 1700 - 1850 require.

"Consolidated material" means materials of sufficient hardness or stability to resist weathering so as to inhibit erosion or sloughing.

"Cropland" means land used for the production of adapted crops for harvest, alone or in a rotation with grasses and legumes, and includes row crops, small grain crops, hay crops, nursery crops, orchard crops, and other similar specialty crops.

"Cumulative impact area" means the area, including the permit area, within which impacts resulting from the proposed operation may interact with the impacts of all anticipated mining on surface and groundwater systems. Anticipated mining shall include, at a minimum, the entire projected lives through bond release of:

the proposed operation;

all existing operations;

any operation for which a permit application has been submitted to the Department.

"Darkened surface soil" means mineral horizons formed at or adjacent to the surface of the soil which are higher in organic matter content, and visibly darker in color than the immediately underlying horizons.

"Department" means the Illinois Department of Mines and Minerals, or its successor.

"Direct financial interest" means ownership or part ownership by an employee of lands, stocks, bonds, debentures, warrants, partnership



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shares, or other holdings and also means any other arrangement where the employee may benefit from his or her holding in or salary from coal mining operations. Direct financial interests include employment, pensions, creditor, real property, and other financial relationships.

"Director" means the Director of the Department.

"Disturbed area" means an area where vegetation, topsoil, or overburden is removed or upon which topsoil, spoil, coal processing waste, underground development waste, or noncoal waste is placed by surface coal mining operations. Those areas are classified as disturbed until reclamation is complete and the performance bond or other assurance of performance required by 62 Ill. Adm. Code 1800 is released.

"Diversion" means a channel, embankment, or other man-made structure constructed to divert water from one area to another.

"Downslope" means the land surface between the projected outcrop of the lowest coalbed being mined along each high-wall and a valley floor.

"Embankment" means an artificial deposit of material that is raised above the natural surface of the land and used to contain, divert, or store water, support roads or railways, or for other similar purposes.

"Employee" means:

any person employed by the Department who performs any function or duty under the Act; and

advisory board or commission members and consultants who perform any function or duty under the Act, if they perform decision-making functions for the Department under the authority of State law or regulations. However, members of advisory boards or commissions established in accordance with State law or regulations to represent multiple interests are not considered to be employees. State officials may through State law or regulations expand this definition to meet their program needs.

"Ephemeral stream" means a stream which meets both requirements:

It flows only in direct response to precipitation in the immediate watershed or in response to the melting of a cover of snow and ice; and

It has a channel bottom that is always above the local water table.

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"Excess spoil" means spoil material disposed of in a location other than the mined-out area; provided, the spoil material used to achieve the approximate original contour or to blend the mined-out area with the surrounding terrain in accordance with 62 Ill. Adm. Code 1816.102(d) and 1817.102(d) in nonsteep slope areas shall not be considered excess spoil.

"Existing structure" means a structure used in connection with surface coal mining and reclamation operations for which construction began prior to June 1, 1982.

"Federal Director" means the Director of the Federal Office of Surface Mining Reclamation and Enforcement.

"Federal violation notice" means a violation notice issued by OSM or by another agency or instrumentality of the United States.

"Final cut" means the last pit created in a surface-mined area.

"Fragile lands" means geographic areas containing important natural, ecological, scientific or esthetic resources that could be damaged or destroyed by surface coal mining operations. Examples of fragile lands include valuable habitats for fish or wildlife, critical habitats for endangered or threatened species of animals or plants, uncommon geologic formations, National Natural Landmark sites, areas where mining may cause flooding, environmental corridors containing a concentration of ecologic and esthetic features, areas of recreational value due to high environmental quality, and buffer zones adjacent to the boundaries of areas where surface coal mining operations are prohibited under Section 7.01 of the State Act (Ill. Rev. Stat. 1991, ch. 96 1/2, par. 7907.01) [225 ILCS 720/7.01] and 62 Ill. Adm. Code 1761.11, if those areas have characteristics requiring additional areal protection or if the buffer zone itself contains fragile resources.

"Fugitive dust" means that particulate matter not emitted from a duct or stack which becomes airborne due to the forces of wind or surface coal mining and reclamation operations or both. During surface coal mining and reclamation, it may include emissions from haul roads; wind erosion of exposed surfaces, storage piles, and spoil piles; reclamation operations; and other activities in which material is either removed, stored, transported, or redistributed.

"Gravity discharge" means, with respect to underground mining activities, mine drainage that flows freely in an open channel downgradient. Mine drainage that occurs as a result of flooding a mine to the level of the discharge is not gravity discharge.

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"Ground cover" means the area of ground covered by the combined aboveground parts of vegetation and by the litter that is produced naturally on site.

"Ground water" means subsurface water that fills available openings in rock or soil materials to the extent that they are considered water saturated.

"Head-of-hollow fill" means a fill structure consisting of any material, other than organic material, placed in the uppermost reaches of a hollow where side slopes of the existing hollow measured at the steepest point are greater than twenty (20) degrees or the average slope of the profile of the hollow from the toe of the fill to the top of the fill is greater than ten (10) degrees. In head-of-hollow fills, the top surface of the fill, when completed, is at approximately the same elevation as the adjacent ridge line, and no significant area of natural drainage occurs above the fill draining into the fill area.

"High capability land" means land not meeting the definition of prime farmland or land exempted in accordance with 62 Ill. Adm. Code 1785.17 where the Department determines the following three facts are present together:

The land is capable of being reclaimed for row-crop agricultural purposes;

The land is suitable for row-crop agricultural purposes based on United States Soil Conservation Service soil survey classifications of the affected land prior to mining (all soil types in capability Classes I, II, III and those soil types in capability Class IV with slopes of five (5) percent or less), as set forth in Land-Capability Classification, Agriculture Handbook No. 210, published by the U.S. Department of Agriculture, Soil Conservation Service in 1973; and

The optimum future use of the land is for row-crop agricultural purposes.

"Highwall" means the face of exposed overburden and coal in an open cut of a surface coal mining activity or for entry to underground mining activities.

"Highwall remnant" means that portion of highwall that remains after backfilling and grading of a remining permit area.

"Higher or better uses" means post-mining land uses that have a higher economic value or nonmonetary benefit to the landowner or the

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community than the premining land uses.

"Historically used for cropland" means:

Lands that have been used for cropland for any five (5) years or more out of the ten (10) years immediately preceding the acquisition, including purchase, lease, or option, of the lands for the purpose of conducting or allowing through resale, lease or option, the conduct of surface coal mining and reclamation operations;

Lands that the Department determines, on the basis of additional cropland history of the surrounding lands and the lands under consideration that the permit area is clearly cropland but falls outside the specific five (5)-year-in-ten (10) criterion, in which case the regulations for prime farmland shall be applied to include more years of cropland history only to increase the prime farmland acreage to be preserved; or

Lands that would likely have been used as cropland for any five (5) out of the last ten (10) years, immediately preceding such acquisition but for the same fact of ownership or control of the land unrelated to the productivity of the land.

"Historic lands" means, for purposes of implementing 62 Ill. Adm. Code 1762 and 1764, important historic, cultural, and scientific areas that could be damaged or be destroyed by surface coal mining operations. Examples of historic lands include archaeological and paleontological sites, National Historic Landmark sites, sites listed on or eligible for listing on a State or National Register of Historic Places, sites having religious or cultural significance to native Americans or religious groups or sites for which historic designation is pending.

"Hydrologic balance" means the relationship between the quality and quantity of water inflow to, water outflow from, and water storage in a hydrologic unit such as a drainage basin, aquifer, soil zone, lake, or reservoir. It encompasses the dynamic relationships among precipitation, runoff, evaporation, and changes in ground and surface water storage.

"Hydrologic regime" means the entire state of water movement in a given area. It is a function of the climate and includes the phenomena by which water first occurs as atmospheric water vapor, passes into a liquid or solid form, falls as precipitation, moves along or into the ground surface, and returns to the atmosphere as vapor by means of evaporation and transpiration.

"Imminent danger to the health and safety of the public" means the

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existence of any condition or practice, or any violation of a permit or other requirements of the State Act in a surface coal mining and reclamation operation, which could reasonably be expected to cause substantial physical harm to persons outside the permit area before the condition, practice, or violation can be abated. A reasonable expectation of death or serious injury before abatement exists if a rational person, subjected to the same condition or practice giving rise to the peril, would avoid exposure to the danger during the time necessary for abatement. Section 1.03(a)(7) of the Surface Coal Mining Land Conservation and Reclamation Act (Ill. Rev. Stat. 1991, ch. 96 1/2, par. 7901.03(a)(7)) [225 ILCS 720/1.03(a)(7)].

"Impounding structure" means a dam, embankment, or other structure used to impound water, slurry, or other liquid or semi-liquid material.

"Impoundment" means a closed basin, naturally formed or artificially built, which is dammed or excavated for the retention of water, sediment, or waste.

"Indirect financial interest" means the same financial relationships as for direct ownership, but where the employee reaps the benefits of such interests, including interests held by his or her spouse, minor child and other relatives, including in-laws, residing in the employee's home. The employee will not be deemed to have an indirect financial interest if there is no relationship between the employee's duties and the coal mining operation in which the spouse, minor children, or other resident relatives hold a financial interest.

"In situ processes" means activities conducted in connection with in-place distillation, retorting, leaching, or other chemical or physical processing of coal. The term includes, but is not limited to, in situ gasification, in situ leaching, slurry mining, solution mining, borehole mining, and fluid recovery mining.

"Institute" means the Department of Energy and Natural Resources or such other agency as designated by the Director in accordance with Section 7.03 of the State Act.

"Interagency Committee" means the Interagency Committee on Surface Mining Control and Reclamation Section 1.05 of the State Act created.

"Intermittent stream" means:

A stream or reach of a stream that drains a watershed of at least one (1) square mile; or

A stream or reach of a stream that is below the local water table

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for at least some part of the year, and obtains its flow from both surface runoff and ground water discharge.

"Irreparable damage to the environment" means any damage to the environment in violation of the State Act or these regulations that cannot be corrected by actions of the applicant.

"Land capability" means the soils' premining capabilities based on the United States Department of Agriculture, Soil Conservation Service classification system as found in Agriculture Handbook No. 210, Land-Capability Classification, (published in 1973) as interpreted from the soils map for sustained production of commonly cultivated crops or for the production of permanent vegetation.

"Land eligible for remining" means those lands that would otherwise be eligible for expenditures under Section 402(g)(4) or Section 404 of the Surface Mining Control and Reclamation Act of 1977 (30 U.S.C. 1232(g)(4), 1234).

"Land use" means specific uses or management-related activities, rather than the vegetation or cover of the land. Land uses may be identified in combination when joint or seasonal uses occur and may include land used for support facilities that are an integral part of the use. Changes of land use or uses from one of the following categories to another shall be considered as a change to an alternative land use which is subject to approval by the Department in accordance with 62 Ill. Adm. Code 1780.23.

"Cropland" means land used for the production of adapted crops for harvest, alone or in a rotation with grasses and legumes, and includes row crops, small grain crops, hay crops, nursery crops, orchard crops, and other similar specialty crops. Allowable support facilities include access roads, farm buildings, hedgerows, erosion control structures such as grassed waterways, terraces and sediment ponds, and other incidental facilities related to cropland management, except that no facility, other than erosion control structures, may be located on prime farmland.

"Pastureland" means land used primarily for the long-term production of adapted, domesticated forage plants to be grazed by the livestock or occasionally cut and cured for livestock feed. Allowable support facilities include access roads, farm buildings, erosion control structures such as grassed waterways, downdrains, terraces and sediment ponds, water impoundments used for stock watering, and other incidental facilities related to pasture management.



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"Grazingland" means land used for grasslands and forest lands where the indigenous vegetation is actively managed for grazing, browsing, or occasional hay production.

"Forestry" means land used or managed for the long-term production of wood, wood fiber, or wood-derived products. Allowable support facilities include water impoundments, access and fire control lanes, erosion control structures such as grassed waterways, downdrains, terraces and sediment ponds, and other incidental facilities related to sound multiple use management of the forest resource.

"Residential" means land used for single- and multiple-family housing, mobile home parks, and other residential lodgings.

"Industrial/Commercial" means land used for:

Extraction or transformation of materials for fabrication of products, wholesaling of products, or for long-term storage of products. This includes all heavy and light manufacturing facilities.

Retail or trade of goods or services, including hotels, motels, stores, restaurants, and other commercial establishments.

"Recreation" is land used for public or private leisure-time use, including developed recreation facilities such as parks, camps, and amusement areas, as well as areas for less intensive uses such as hiking, canoeing, and other undeveloped recreational uses. Allowable support facilities include water impoundments, access roads, and other incidental facilities related to the recreational development of the area.

"Fish and wildlife habitat" is land dedicated wholly or partially to the production, protection, or management of fish or wildlife. Allowable support facilities include water impoundments, access lanes, erosion control structures such as grassed waterways, downdrains, terraces and sediment ponds, and other incidental facilities related to sound fish and wildlife management practices.

"Developed water resources" includes land used for storing water for beneficial uses such as stockponds, irrigation, fire protection, flood control, and water supply. Where appropriate, developed water resources are considered a joint or seasonal use with cropland, pastureland, forestry, recreation and fish and wildlife habitat.

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"Undeveloped land or no current use or land management" includes land that is undeveloped or, if previously developed, land that has been allowed to return naturally to an undeveloped state or has been allowed to return to forest through natural succession.

A post-mining designation of undeveloped land shall not be allowed for any land which is proposed to be affected by the mining operation.

"Mining operations or surface coal mining operations" means both surface mining operations and underground mining operations. Section 1.03(a)(11) of the Surface Coal Mining Land Conservation and Reclamation Act (Ill. Rev. Stat. 1991, ch. 96 1/2, par. 7901.03(a)(11)) [225 ILCS 720/1.03(a)(11)].

"Moist bulk density" means the weight of soil (oven dry) per unit volume. Volume is measured when the soil is at field moisture capacity (1/3 bar moisture tension). Weight is determined after drying the soil at one hundred and five degrees (105° C).

"MSHA" means the Mine Safety and Health Administration of the United States Department of Labor.

"Mulch" means vegetation residues or other suitable materials that aid in soil stabilization and soil moisture conservation, thus providing micro-climatic conditions suitable for germination and growth.

"Natural hazard lands" means geographic areas in which natural conditions exist which pose or, as a result of surface coal mining operations, may pose a threat to the health, safety or welfare of people, property or the environment, including areas subject to landslides, cave-ins, large or encroaching sand dunes, severe wind or soil erosion, frequent flooding, avalanches, and areas of unstable geology.

"Noxious plants" means any plant species listed as a "noxious weed" under regulations authorized by the Illinois Noxious Weed Law (Ill. Rev. Stat. 1991, ch. 5, pars. 951 et seq.) [505 ILCS 100]; any plant species whose seed is listed as a "prohibited (primary) noxious weed" or "restricted" (secondary) noxious weed" or "weed seeds" under regulations authorized by the Illinois Seed Law (Ill. Rev. Stat. 1991, ch. 5, pars. 401 et seq.) [505 ILCS 110/1]; or any plant which the Department of Agriculture has declared a pest under the Illinois Pesticide Act (Ill. Rev. Stat. 1991, ch. 5, pars. 801 et seq.) [415 ILCS 60].

"Occupied dwelling" means any building that is currently being used on a regular or temporary basis for human habitation.

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"Office" means the Office of Surface Mining Reclamation and Enforcement, U.S. Department of the Interior.

"Operator" means any person engaged in coal mining who removes or intends to remove more than two hundred and fifty (250) tons of coal from the earth or from coal refuse piles by mining within twelve (12) consecutive calendar months in any one location.

"Outslope" means the face of the spoil or embankment sloping downward from the highest elevation to the toe.

"Overburden" means material of any nature, consolidated or unconsolidated, that overlies a coal deposit, excluding topsoil.

"Ownership or control link" means any relationship included in the definition of owned or controlled or owns or controls at 62 Ill. Adm. Code 1773.5(a) and (b) or in the violations review provisions of 62 Ill. Adm. Code 1773.15(b). It includes any relationship presumed to constitute ownership or control under the definition of "owned or controlled" or "owns or controls" unless such presumption has been successfully rebutted under the provisions of 62 Ill. Adm. Code 1773.24 and 1773.25.

"Perennial stream" means a stream that flows continuously during all of the calendar year or part of a stream that flows continuously during all of the calendar year. The stream or part of a stream flows continuously as a result of groundwater discharge or surface runoff. The term does not include intermittent stream or ephemeral stream.

"Performance bond" means a surety bond, collateral bond or a combination thereof, by which a permittee assures faithful performance of all the requirements of the Federal Act, the State Act, 62 Ill. Adm. Code 1700 - 1850, and the requirements of the permit and reclamation plan.

"Performing any function or duty under this Act" means those decisions or actions, which if an employee performed or did not perform would affect the programs under the State Act.

"Permanent diversion" means a diversion remaining after surface coal mining and reclamation operations are completed which has been approved for retention by the Department and other appropriate State and Federal agencies.

"Permanent impoundment" means an impoundment which the Department approved and, if required, is approved by other State and Federal agencies for retention as part of the post-mining land use.

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"Permit" means a permit to conduct surface coal mining and reclamation operations which the Department issues pursuant to the State program.

"Permit area" means the area of land and water within the boundaries of the permit which are designated on the permit application maps, as approved by the Department. This area shall include all areas which are or will be affected by the surface coal mining and reclamation operations during the term of the permit indicated on the approved map which the operator submitted with the operator's application and which is required to be bonded under 62 Ill. Adm. Code 1800 and where the operator proposes to conduct surface coal mining and reclamation operations under the permit, including all disturbed areas; provided, that areas adequately bonded under another valid permit may be excluded from a permit area. The permit area excludes the area defined in these regulations as the shadow area.

"Permit term" means the period during which the permittee may engage in mining and reclamation operations under the permit. Section 1.03(a)(18) of the Surface Coal Mining Land Conservation and Reclamation Act (Ill. Rev. Stat. 1991, ch. 96 1/2, par. 7901.03(a)(18)) [225 ILCS 720/1.03(a)(18)].

"Permittee" means a person holding or required by the State Act or these regulations to hold a permit to conduct surface coal mining and reclamation operations issued by a Department pursuant to a State program.

"Person" means an individual, Indian tribe when conducting surface coal mining and reclamation operations on non-Indian lands, general partnership, limited partnership, business trust association, society, joint venture, joint stock company, firm, company, corporation, cooperative or other business organization or any agency, unit, or instrumentality of Federal, State or local government including any publicly-owned utility or publicly-owned corporation of Federal, State or local government.

"Person having an interest which is or may be adversely affected" or "Person with a valid legal interest" shall include any person:

Who uses any resources of economic, recreational, esthetic, or environmental value that may be adversely affected by coal exploration or surface coal mining and reclamation operations or any related action of the Secretary or the Department; or

Whose property is or may be adversely affected by coal exploration or surface coal mining and reclamation operations or any related action of the Secretary or the Department.

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"Placeland" means undisturbed land before any mining activity.

"Precipitation event" means a quantity of water resulting from drizzle, rain, snow, sleet, or hail in a limited period of time. It may be expressed in terms of recurrence interval. As used in these regulations, precipitation event also includes that quantity of water emanating from snow cover as snow-melt in a limited period of time.

"Previously mined area" means land that had been mined before August 3, 1977.

"Prime farmland" means those lands which are defined by the Secretary of Agriculture in 7 CFR 657 (43 Fed. Reg. 4031 (1978)) and which have historically been used for cropland as that phrase is defined above.

"Principal shareholder" means any person who is the record or beneficial owner of ten (10) percent or more of any class of voting stock.

"Prohibited financial interest" means any direct or indirect financial interest in any coal mining operation.

"Property to be mined" means both the surface and mineral estates within the permit area and the mineral estate within the shadow area.

"Public building" means any structure that is owned or leased and principally used by a public government agency for public business or meetings.

"Public office" means a facility under the control of a governmental entity which is open to public access on a regular basis during reasonable business hours.

"Public park" means an area or portion of an area dedicated or designated by any Federal, State, or local agency primarily for public recreational use, whether or not such use is limited to certain times or days, including any land leased, reserved or held open to the public because of that use.

"Publicly-owned park" means a public park that is owned by a Federal, State or local governmental entity.

"Public road" means a road:

which has been designated as a public road pursuant to the law of the jurisdiction in which it is located;

which is maintained with public funds in a manner similar to

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other public roads of the same classification within the jurisdiction;

for which there is substantial (more than incidental) public use; and

which meets road construction standards for other public roads of the same classification in the local jurisdiction.

"Qualified registered professional engineer" means a civil engineer, mining engineer, environmental engineer or general engineer meeting the requirements of Section 9 of ~~the Illinois~~ the Professional Engineering Practice Act of 1989 (Ill. Rev. Stat. 1991, ch. 111, par. 5112 5209) [225 ILCS 325/429].

"Rangeland" means land on which the natural potential (climax) plant cover is principally native grasses, forbs, and shrubs valuable for forage. This land includes natural grasslands and savannas, such as prairies, and juniper savannas, such as brushlands. Except for brush control, management is primarily achieved by regulating the intensity of grazing and season of use.

"Reasonably available spoil" means spoil and suitable coal mine waste material generated by the remining operation or other spoil or suitable coal mine waste material located in the permit area that is accessible and available for use and that when rehandled will not cause a hazard to public safety or significant damage to the environment.

"Recharge capacity" means the ability of the soils and underlying materials to allow precipitation and runoff to infiltrate and reach the zone of saturation.

"Reclamation" means those actions which these regulations require to restore mined land to a post-mining land use which the Department has approved. These actions do not include subsidence control measures conducted in the shadow area to restore damaged land to pre-mining capability.

"Recurrence interval" means the interval of time in which a precipitation event is expected to occur once, on the average. For example, the ten (10)-year, twenty-four (24)-hour precipitation event would be that twenty-four (24)-hour precipitation event expected to occur on the average once in ten (10) years.

"Reference area" means a land unit maintained under appropriate management for the purpose of measuring vegetation ground cover, productivity and plant species diversity that are produced naturally



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or by Department-approved crop production methods. Reference areas must be representative of geology, soil, slope, and vegetation in the permit area.

"Refuse pile" means a surface deposit of coal mine waste that does not impound water, slurry, or other liquid or semi-liquid material.

"Regional director" means Regional Director of the Federal Office of Surface Mining Reclamation and Enforcement or Regional Director of the Federal Office of Surface Mining Reclamation and Enforcement's representative.

"Regulatory program" means Illinois' permanent regulatory program which the Office of Surface Mining Reclamation and Enforcement approved and set forth in 30 CFR 913.1-913.16 (1991-1994). 30 CFR 913.1-913.16 do not include any subsequent amendments or editions.

"Remining" means conducting surface coal mining and reclamation operations which affect previously mined areas.

"Renewable resource lands" means aquifers and areas for the recharge of aquifers and other underground waters, areas for agricultural or silvicultural production of food and fiber, and grazing lands.

"Responsible land management" means that combination of preparation, maintenance, fertilization and tilling of land capable of producing row crops which would be practiced by a person in the business of producing row crops on unmined land in the same region on the same, or similar, soil type as the mined land being managed, which practices can reasonably be expected to continue after mining and reclamation are completed, as determined by the Department.

"Road" means a surface right-of-way for purposes of travel by land vehicles used in surface coal mining and reclamation operations or coal exploration. A road consists of the entire area within the right-of-way, including the roadbed, shoulders, parking and side areas, approaches, structures, ditches, and surface. The term includes access and haulroads constructed, used, reconstructed, improved, or maintained for use in surface coal mining and reclamation operations or coal exploration, including use by coal hauling vehicles to and from transfer, processing or storage areas. The term does not include ramps and routes of travel within the immediate mining area or within spoil or coal mine waste disposal areas.

"Safety factor" means the ratio of the available shear strength to the developed shear stress, or the ratio of the sum of the resisting forces to the sum of the loading or driving forces.

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"Secretary" means the Secretary of the Interior or the Secretary's representative.

"Sedimentation pond" means an impoundment used to remove solids from water in order to meet water quality standards or effluent limitations before the water leaves the permit area.

"Shadow area" means any area beyond the limits of the permit area in which underground mine workings are located. This area includes all resources above and below the coal that are protected by the State Act that may be adversely impacted by underground mining operations including impacts of subsidence.

"Significant forest cover" means an area where the plant community consists predominantly of trees and other woody vegetation.

"Significant, imminent environmental harm to land, air or water resources" means:

An environmental harm is an adverse impact on land, air, or water resources which resources include, but are not limited to, plant and animal life;

An environmental harm is imminent if a condition, practice, or violation exists which:

Is causing such harm; or

May reasonably be expected to cause such harm at any time before the end of the reasonable abatement time that would be set under Section 8.06(c) of the State Act (Ill. Rev. Stat. 1991, ch. 96 1/2, par. 7908.06(c)) [225 ILCS 720/8.06(c)].

An environmental harm is significant if that harm is appreciable and not immediately repairable.

"Siltation structure" means a device, or devices, used to remove, collect or otherwise control runoff so that resulting outflow will meet applicable effluent standards.

"Slope" means average inclination of a surface measured from the horizontal, generally expressed as the ratio of a unit of vertical distance to a given number of units of horizontal distance (e.g., 1v: 5h). It may also be expressed as a percent or in degrees.

"Soil horizons" means contrasting layers of soil parallel or nearly parallel to the land surface. Soil horizons are differentiated on the

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basis of field characteristics and laboratory data. The four (4) master soil horizons are:

A horizon. The uppermost mineral layer, often called the surface soil or topsoil. It is the part of the soil in which organic matter is most abundant, and leaching of soluble or suspended particles is typically the greatest.

E horizon. The layer commonly near the surface below an A horizon and above a B horizon. An E horizon is most commonly differentiated from an overlying A horizon by lighter color and generally has measurably less organic matter than the A horizon. An E horizon is most commonly differentiated from the underlying B horizon in the same sequum by color of higher value or lower chroma, by coarser texture, or by a combination of these properties.

B horizon. The layer that typically is immediately beneath the A and E horizons and often called the subsoil. This middle layer commonly contains more clay, iron, or aluminum than the A, E, or C horizons.

C horizon. The deepest layer of the soil profile. It consists of loose material or weathered rock that is relatively unaffected by biologic activity.

"Soil survey" means a field and other investigation, resulting in a map showing the geographic distribution of different kinds of soils and an accompanying report that describes, classifies, and interprets such soils for use. Soil surveys must meet the standards of the National Cooperative Soil Survey as incorporated by reference in 62 Ill. Adm. Code 1785.17(c)(1).

"Spoil" means overburden that has been removed during surface coal mining operations.

"Stabilize" means to control movement of soil, spoil piles, or areas of disturbed earth by modifying the geometry of the mass, or by otherwise modifying physical or chemical properties, such as by providing a protective surface coating.

"State Act" means the Surface Coal Mining Land Conservation and Reclamation Act (Ill. Rev. Stat. 1991, ch. 96 1/2, pars. 7901.01 et seq.) [225 ILCS 720].

"State regulatory program" means the Illinois program which the Secretary approved on June 1, 1982 pursuant to 30 CFR 732.1 through 732.15.

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"State violation notice" means a violation notice issued by a state regulatory authority or by another agency or instrumentality of State government.

"Steep slope" means any slope of more than twenty (20) degrees or such lesser slope as the Department may designate after consideration of such regional characteristics as soil and climate.

"Substantially disturb" means, for purposes of coal exploration, to impact significantly upon land, ~~air~~ or water resources by blasting; by removal of vegetation, topsoil, or overburden; by construction of roads or other access routes; by placement of excavated earth or waste material on the natural land surface or by other such activities; or to remove more than 250 tons of coal.

"Substantial legal and financial commitments in a surface coal mining operation" means significant investments that have been made on the basis of a long-term coal contract in power plants, railroads, coal-handling, preparation, extraction or storage facilities, and other capital-intensive activities. An example would be an existing mine, not actually producing coal, but in a substantial stage of development prior to production. Costs of acquiring the coal in place or of the right to mine it without an existing mine alone, as described in the above example, are not sufficient to constitute substantial legal and financial commitments.

"Successor in interest" means any person who succeeds to rights granted under a permit, by transfer, assignment, or sale of those rights.

"Surface mining activities" means those surface coal mining and reclamation operations incident to the extraction of coal from the earth by removing the materials over the coal seam, before recovering the coal, by auger coal mining, or by recovery of coal from a deposit that is not in its original geologic location.

"Surface coal mining and reclamation operations", or "mining and reclamation operations", means surface coal mining operations and all activities necessary or incidental to the reclamation of such operations. This term includes the term "surface coal mining operations".

"Surface coal mining operations", or "mining operations" means:

Activities conducted on the surface of lands in connection with a surface coal mine or subject to the requirements of Section 516 of the Federal Act, surface operations and surface impacts incident to an underground coal mine, the products of which enter

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commerce, or the operations of which directly or indirectly affect interstate commerce. Such activities include excavation for the purpose of obtaining coal, including such common methods as contour, strip, auger, mountaintop removal, box cut, open pit, and area mining, the uses of explosives and blasting; in situ distillation or retorting; leaching or other chemical or physical processing; and the cleaning, concentrating, or other processing or preparation of coal. Such activities also include the loading of coal for interstate commerce at or near the mine-site; provided, these activities do not include the extraction of coal incidental to the extraction of other minerals, where coal does not exceed sixteen and two-thirds (16 2/3) per centum of the tonnage of minerals removed for purposes of commercial use or sale, or coal exploration subject to Section 512 of the Federal Act; and provided further, that excavation for the purpose of obtaining coal includes extraction of coal from coal refuse piles; and

The areas upon which the activities described in the first paragraph of this definition occur or where those activities disturb the natural land surface. These areas shall also include any adjacent land the use of which is incidental to any such activities, all lands affected by the construction of new roads or the improvement or use of existing roads to gain access to the site of those activities and for haulage and excavation, workings, impoundments, dams, ventilation shafts, entryways, refuse banks, dumps, stockpiles, overburden piles, spoil banks, culm banks, tailings, holes or depressions, repair areas, storage areas, processing areas, shipping areas, and other areas upon which are sited structures, facilities, or other property or material on the surface, resulting from or incidental to those activities.

"Surface mining operations" means activities conducted on the surface of lands in connection with a surface coal mine or surface operations. Such activities include excavation for the purpose of obtaining coal including such common methods as contour, strip, auger, mountaintop removal, box cut, open pit, and area mining, coal recovery from coal waste disposal areas, the use of explosives and blasting, and in situ distillation or retorting, leaching or other chemical or physical processing, and the cleaning, concentrating, or other processing or preparation, loading of coal at or near the mine site; and the areas on which such activities occur or where such activities disturb the natural land surface. Such areas include any adjacent land the use of which is incidental to any such activities, all lands affected by the construction of new roads or the improvement or use of existing roads to gain access to the site of such activities and for haulage, and excavations, workings, impoundments, dams, refuse banks, dumps,

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stockpiles, overburden piles, spoil banks, culm banks, tailings, holes or depressions, repair areas, storage areas, processing areas, shipping areas and other areas upon which are sited structures, facilities, or other property or materials on the surface, resulting from or incidental to such activities. Section 1.03(a)(24) of the Surface Coal Mining Land Conservation and Reclamation Act (Ill. Rev. Stat. 1991, ch. 96 1/2, par. 7901.03(a)(24)) [225 ILCS 720/1.03(a)(24)].

"Suspended solids or nonfilterable residue, expressed as milligrams per liter", means any materials carried or held in suspension in water which are retained by a standard glass fiber filter in the procedure outlined by the Environmental Protection Agency's regulations for waste water and analyses (40 CFR 136).

"Temporary diversion" means a diversion of a stream or overland flow which is used during coal exploration or surface coal mining and reclamation operations and which the Department has not approved to remain after reclamation.

"Temporary impoundment" means an impoundment which is used during coal exploration or surface coal mining and reclamation operations and which the Department has not approved to remain after reclamation.

"Ton" means two thousand (2000) pounds avoirdupois (.90718 metric ton).

"Topsoil" means the A and E soil horizon layers of the four (4) master soil horizons.

"Toxic - forming materials" means earth materials or wastes which, if acted upon by air, water, weathering, or microbiological processes, are likely to produce chemical or physical conditions in soils or water that are detrimental to living organisms or uses of water.

"Toxic mine drainage" means water that is discharged from active or abandoned mines or other areas affected by coal exploration or surface coal mining and reclamation operations, which contains a substance that through chemical action or physical effects is likely to kill or injure, or impair living organisms commonly present in the area that might be exposed to it.

"Transfer, assignment or sale of permit rights" means a change in ownership or other effective control over the right to conduct surface coal mining operations under a permit which the Department issued.

"Underground development waste" means waste rock mixtures resulting from development of areas for underground mining activities.



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"Underground mining activities" means a combination of:

Surface operations incident to underground extraction of coal or in situ processing, such as construction, use, maintenance, and reclamation of roads, above-ground repair areas, storage areas, processing areas, shipping areas, areas upon which are sited support facilities including hoist and ventilating ducts, areas utilized for the disposal and storage of waste, and areas on which materials incident to underground mining operations are placed; and

Underground operations such as underground construction, operation, and reclamation of shafts, edits, underground support facilities, in situ processing, and underground mining, hauling, storage, and blasting.

"Underground mining operations" means the underground excavation of coal; and

surface operations incident to the underground extraction of coal, such as construction, use, maintenance, and reclamation of roads, above-ground repair areas, storage areas, processing areas, shipping areas, areas on which are sited support facilities including hoist and ventilation ducts, areas used for the storage and disposal of waste, and areas on which materials incident to underground mining operations are placed; and

underground operations incident to underground excavation of coal, such as underground construction, operation, and reclamation of shafts, edits, underground support facilities, in situ processing, and underground mining, hauling, storage, or blasting. Section 1.03(a)(26) of the Surface Coal Mining Land Conservation and Reclamation Act (Ill. Rev. Stat. 1991, ch. 96 1/2, par. 7901.03(a)(26)) [225 ILCS 720/1.03(a)(26)].

"Unwarranted failure to comply" means the failure of a permittee to prevent the occurrence of any violation of the operator's permit or any requirement of the State Act due to indifference, lack of diligence, or lack of reasonable care, or the failure to abate any violation of such permit of the State due to indifference, lack of diligence, or lack of reasonable care. Section 1.03(a)(27) of the Surface Coal Mining Land Conservation and Reclamation Act (Ill. Rev. Stat. 1991, ch. 96 1/2, par. 7901.03(a)(27)) [225 ILCS 720/1.03(a)(27)].

"Valid existing rights" means:

Except for haul roads, that a person possesses valid existing

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rights for an area protected under Section 7.01 of the State Act (Ill. Rev. Stat. 1991, ch. 96 1/2, par. 7907.01) [225 ILCS 720/7.01] on August 3, 1977, if the application of any of the prohibitions contained in that Section to the property interest that existed on that date would effect a taking of the person's property which would entitle the person to just compensation under the Fifth and Fourteenth Amendments to the United States Constitution or Article I, Section 15 of the Illinois Constitution of 1970 or both.

For haul roads:

A recorded right of way, recorded easement or a permit for a coal haul road recorded as of August 3, 1977, or at the time of the designation of an area, as to which a conflict is alleged, as part of a national system listed in Section 7.01 of the State Act, or at the time of the coming into existence, within the prohibited distance of a structure, road, cemetery, or other activity listed in Section 7.01 of the State Act; or

Any other road in existence as of August 3, 1977, or at the time of the designation of an area as to which a conflict is alleged, as part of a national system listed in Section 7.01 of the State Act, or at the time of coming into existence, within the prohibited distance of a structure, road, cemetery or other activity listed in Section 7.01 of the State Act.

Where an area comes under the protection of Section 7.01 of the State Act after August 3, 1977, valid existing right shall be found if:

On the date the protection comes into existence, a validly authorized surface coal mine operation exists on that area; or

The prohibition caused by Section 7.01 of the State Act, if applied to the property interest that exists on the date the protection comes into existence, would effect a taking of the person's property which would entitle the person to just compensation under the Fifth and Fourteenth Amendments to the United States Constitution or Article 1, Section 15 of Illinois Constitution of 1970, or both.

Interpretation of the terms of the document relied upon to establish valid existing rights shall be based either upon Illinois case law concerning interpretation of documents

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conveying mineral rights or, where Illinois case law is lacking, upon the usage and custom at the time and place where it came into existence and upon a showing by the applicant that the parties to the document actually contemplated a right to conduct the same underground or surface mining activities for which the applicant claims a valid existing right.

"Valley fill" means a fill structure consisting of any material, other than organic material, that is placed in a valley where side slopes of the existing valley, measured at the steepest point, are greater than twenty (20) degrees, or where the average slope of the profile of the valley from the toe of the fill to the top of the fill is greater than ten (10) degrees.

"Violation notice" means any written notification--by--letter, memorandum--legal--or--administrative--pleading--or--other--written communication--from--a governmental entity--referring--of--a violation--of law from a governmental entity, whether by letter, memorandum, judicial or administrative pleading, or other written communication, of a violation of the Act; any federal regulation promulgated pursuant thereto; a State program; or any federal or state law or regulation pertaining to air or water environmental protection in connection with a surface coal mining operation. It includes, but is not limited to, a notice of violation; an imminent harm cessation order; a failure-to-abate cessation order; a final order, bill or demand letter pertaining to a delinquent civil penalty; a bill or demand letter pertaining to delinquent abandoned mine reclamation fees; and a notice of bond forfeiture, where one or more violations upon which the forfeiture was based have not been corrected.

"Water table" means the upper surface of a zone of saturation, where the body of ground water is not confined by an overlying impermeable zone.

"Willful violation" means a deliberate act or omission which violates the State Act, these regulations, or any permit condition which the State Act requires.

(Source: Amended at 19 Ill. Reg. \_\_\_\_\_, effective \_\_\_\_\_)

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- 1) Heading of the Part: General Rules Relating to Procedure and Practice
- 2) Code Citation: 62 Ill. Adm. Code 1848
- 3) Section Number: Proposed Action:  
1848.5 Amend
- 4) Statutory Authority: Implementing and authorized by the Surface Coal Mining Land Conservation and Reclamation Act (Ill. Rev. Stat. 1991, ch. 96 1/2, pars. 7901.01 et seq.) [225 ILCS 720].

- 5) A complete description of the subjects and issues involved:

Public Act 88-63 was enacted on July 7, 1993, amending Section 2.11 of the Surface Coal Mining Land Conservation and Reclamation Act (State Act) [225 ILCS 720/2.11]. This statutory amendment requires that notices of permit hearings be published in accordance with the specifications set forth therein. Section 1848.5 contains requirements for notices of hearing. Proposed new subsection (f) implements the 1993 amendment to Section 2.11 of the State Act.

- 6) Will this proposed rule replace an emergency rule currently in effect? No

- 7) Does this rulemaking contain an automatic repeal date? No

- 8) Do these proposed amendments contain incorporations by reference? No

- 9) Are there any other amendments pending on this Part? No

- 10) Statement of Statewide Policy Objectives: The proposed amendments will have no impacts upon local units of government.

- 11) Time, place, and manner in which interested persons may comment on this proposed rulemaking:

Written comments may be submitted within 45 days of the publication of this notice to:

Karen Jacobs, Legal Counsel  
Illinois Department of Mines and Minerals  
300 West Jefferson, Suite 300  
Springfield, IL 62791-0137  
(217) 782-6791

Commenters must provide a name and address. Comments must be directed to a specific subsection and must be made on a separate sheet of 8 1/2 x 11 inch paper.

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Comments may include data, views, arguments or any documents relevant to the proposals noted above in the Description of Subjects and Issues involved. All comments are due at the above address no later than 45 days after publication of this notice. Comments received thereafter will not be considered in this rulemaking.

12) Initial Regulatory Flexibility Analysis:

- A) Types of small businesses affected: This rulemaking does not affect small businesses.
- B) Reporting, bookkeeping or other procedures required for compliance:  
None
- C) Types of professional skills necessary for compliance: None

13) State reason(s) for the rulemaking if it was not included in either of the two (2) most recent regulatory agendas:

This rulemaking was included in the regulatory agenda published at 19 Ill. Reg. 659-684 (January 20, 1995).

The full text of the Proposed Amendments begins on the next page.

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TITLE 62: MINING  
CHAPTER I: DEPARTMENT OF MINES AND MINERALS

## PART 1848

## GENERAL RULES RELATING TO PROCEDURE AND PRACTICE

Section	Scope and Purpose
1848.1	Documents
1848.2	Transcript of Hearings
1848.3	Notice of Hearing
1848.5	Ex Parte Contacts
1848.6	Pre-Hearing Conferences
1848.7	Intervention
1848.8	Discovery
1848.9	Expert Witnesses
1848.11	Motions
1848.12	Consolidation of Proceedings
1848.13	Rules of Evidence; Official Notice
1848.15	Powers of Hearing Officers
1848.16	Disqualification of Hearing Officer
1848.17	Postponement or Continuance of Hearing
1848.18	Failure to State a Claim
1848.19	Summary Decision
1848.20	Proposed Findings of Fact and Conclusions of Law
1848.21	Default
1848.22	

**AUTHORITY:** Implementing and authorized by the Surface Coal Mining Land Conservation and Reclamation Act (Ill. Rev. Stat. 1991, ch. 96 1/2, pars. 7901.01 et seq.) [225 ILCS 720].

**SOURCE:** Adopted at 17 Ill. Reg. 10973, effective July 1, 1993; amended at 19 Ill. Reg. \_\_\_\_\_, effective \_\_\_\_\_.

**Section 1848.5 Notice of Hearing**

The hearing officer shall give written notice of hearing to the parties. Such notice shall include:

- A statement of the time, place and nature of the hearing;
- A statement of the legal authority and jurisdiction under which the hearing is to be held;
- A reference to the particular section of the substantive and procedural statutes and rules involved;
- A short and plain statement of the matters asserted, the consequences of a failure to respond and the official file or other reference number or name;
- The names and mailing addresses of the hearing officer and all parties and other persons to whom notice of the hearing is given;



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f) Permit hearing notices. If the hearing concerns review of a permit decision under 62 Ill. Adm. Code 1847.3, a notice containing the information set forth in subsections (a) and (b) above shall be published in a newspaper of general circulation published in each county in which any part of the area of the affected land is located. The notice shall appear no more than fourteen (14) days nor less than seven (7) days prior to the date of the hearing. The notice shall be no less than one eighth page in size, and the smallest type used shall be twelve point and shall be enclosed in a black border no less than 1/4 inch wide. The notice shall not be placed in that portion of the newspaper where legal notices and classified advertisements appear. Any deviations from the requirements of this subsection attributable to the publishing newspaper shall not be grounds for postponement or continuance of the hearing, nor will such errors necessitate that the notice be republished.

(Source: Amended at 19 Ill. Reg. \_\_\_\_\_, effective \_\_\_\_\_)

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- 1) Heading of the Part: Permanent Program Performance Standards--Underground Mining Operations
- 2) Code Citation: 62 Ill. Adm. Code 1817
- 3) 

<u>Section Number:</u>	<u>Proposed Action:</u>
1817.13	Amend
1817.15	Amend
1817.22	Amend
1817.41	Amend
1817.46	Amend
1817.97	Amend
1817.116	Amend
1817.117	Amend
1817.121	Amend
1817.131	Amend
1817.133	Amend
1817.151	Amend
1817.182	Amend
1817.190	Amend

4) Statutory Authority: Implementing and authorized by the Surface Coal Mining Land Conservation and Reclamation Act (Ill. Rev. Stat. 1991, ch. 96 1/2, pars. 7901.01 et seq.) [225 ILCS 720].

5) A complete description of the subjects and issues involved: part 1817 sets forth performance standards for underground mining operations. Section 1817.13 sets forth general requirements for casing and sealing drilled holes, and is proposed to be amended by requiring that exposed underground openings be backfilled. Similarly, Section 1817.15 contains requirements for permanent casing and sealing of drilled holes. This Section is proposed to be amended by requiring that exposed underground openings be backfilled. Section 1817.22 contains topsoil and subsoil handling requirements. The Department proposes to eliminate the acreage restriction on topsoil substitutes in subsection (b), as counterpart federal regulations contain no such restriction. The 50 acre limit is arbitrary and no longer deemed necessary. Evaluations must be made on technical merits on a case-by-case basis. The size of a given area has nothing to do with whether the proposed substitute material is equal or better.

Section 1817.41 sets forth requirements for protecting the hydrologic balance. Subsections (c)(2) and (e)(2) are proposed to be amended in order to clarify when the required surface and groundwater monitoring reports are to be submitted to the Department. The Department proposes to delete the reference to concurrent submittal of NPDES reports to the Illinois Environmental Protection Agency because the Office of Surface Mining has interpreted this to mean that the Department is responsible for

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checking IEPA's files to determine if reports have been submitted. This interpretation places an unnecessary administrative burden on the Department. Federal regulations only require that reports be submitted to the regulatory authority.

Section 1817.46 sets forth requirements for siltation structures. All disturbed area drainage is currently required to pass through a siltation structure, which is defined as a sedimentation pond or other treatment facility. Both the Surface Mining Control and Reclamation Act of 1977 (SMCRA), 30 U.S.C. 1201 et seq., and the State Act, 225 ILCS 720, allow for the use of sediment control measures other than sediment ponds if approved by the Department as the best technology currently available (BTCA) to prevent additional contributions of suspended solids to stream flow. Requiring ponds in all cases that do not qualify for small area exemptions often results in considerably more disturbance being done to the area during construction of the pond than would result from implementing other sediment control measures. The construction of ponds is not always the BTCA.

For these reasons, Section 1817.46 is proposed to be amended. Subsection (e) will be amended to provide for a second exemption from passing all drainage from disturbed areas through a siltation structure. The exemption provided by new subsection (e)(2)(A) will allow the use of the sediment control measures described in Section 1817.45(b), in lieu of siltation structures, given a demonstration that these measures are the BTCA. New subsection (e)(2)(B) is the current subsection (e)(2) exemption from the use of both a siltation structure and alternate sediment control measures. The proposed amendments will result in less impact to the permit area while providing the same level of protection for the hydrologic balance and ensure that the BTCA, which may be sediment ponds or may be alternate sediment control measures, will be used in all cases. Regulatory citations are also proposed to be updated.

Section 1817.97 sets forth provisions for the protection of fish, wildlife and related environmental values. Subsection (b) is proposed to be amended in order to make the regulation consistent with its federal counterpart. The language proposed to be deleted has caused confusion and may be interpreted as being more stringent than federal requirements, contrary to the "no more stringent than" clause of Section 1.02(c) of the State Act [225 ILCS 720/1.02(c)].

Section 1817.116 sets forth revegetation success standards. Section 3.15 of the State Act was recently amended to change the responsibility period from five years to two years for areas eligible for reining [225 ILCS 720/3.15]. This amendment reflected the 1992 amendment to Section 515(b)(20)(B) of SMCRA. The federal amendment provides for the two-year responsibility period authority to expire on September 30, 2004. The proposed amendment to subsection (a)(2)(B) reflects these legislative

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changes.

On July 1, 1991, the Department's Surface Mining Advisory Council issued a resolution to encourage wetland reclamation as a productive and valuable post-mining land use. As part of that resolution, the Advisory Council called on the Department's Land Reclamation Division to adopt wetland reclamation standards based on ecologically sound and technologically feasible wetland establishment principles and practices. The Governor's Water Resources and Land Use Priorities Task Force, in its April 1993 report, recommended that "the state should develop ecologically sound and technologically feasible wetland establishment principles and practices." Section 1817.116(a)(2)(F) is proposed to be deleted, with the exception of subsection (ii), which has been revised and relocated to Section 1817.116(a)(4)(D). This practice was approved by OSM at 51 Fed. Reg. 44455-44456 (December 10, 1986). This Section has been replaced with new language regarding wetlands augmentation. Water level management is a standard routine technique for wetlands management and as such is not considered augmentative. Many, if not most, government agencies which manage wetlands, including the State of Illinois and the U.S. Department of the Interior, use this widely accepted technique. The technique is used to create, through management, ideal aerobic/anaerobic conditions for the germination of hydrophytic plants. This technique is supported by the scientific literature. More detailed descriptions can be found in the following literature:

Weller, Milton W. 1989. Waterfowl management techniques for wetland enhancement, restoration and creation useful in mitigation procedures, pp. 105-116 In Wetland creation and restoration: the status of the science, Vol. II. U.S. Environmental Protection Agency. EPA 600/3-89/038b.

Atlantic Flyway Council. 1972. Techniques Handbook of the Waterfowl Habitat Development and Management Committee, 2nd ed. Atlantic Flyway Council, Boston, Massachusetts.

Amendments are proposed for Section 1825.14 to provide for compaction alleviation and sufficient bonds to implement compaction alleviation. In addition, Section 1817.116(a)(5) is proposed to be added in response to the Advisory Council's resolution and the Governor's Task Force recommendations.

Section 1817.116(a)(3)(E) is proposed to be amended in response to the Office of Surface Mining's (OSM) directive published at 58 Fed. Reg. 46850 (September 3, 1993). The proposed amendments clarify that non-previously disturbed areas are also subject to a 90% ground cover standard for a minimum of two years in the responsibility period. The proposed amendments would also remove the one year attempt limit for substituting corn productivity for one year of hay productivity. Due to

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the number of variables which may affect corn production, it is felt that this part of the regulation is unnecessarily restrictive. The revegetation regulations are formulated to allow a reasonable period of time to document post-mining productivity. Factors such as lack of rainfall or other uncontrollable crop damaging occurrences may prevent the permittee from achieving targets in any given year. The regulations need to take this into account and should allow additional trials that fall within the "two year/ten year" criteria allowed under this subsection. Subsection (a)(3)(E) is also being revised to allow one year substitution of crops in lieu of hay on limited capability land, provided the Department determines that the practice is proper management. Such practice was approved by OSM in 56 Fed. Reg. 64989 (December 13, 1991). As a normal practice the Department has required limited capability land to be returned to a land use other than cropland. The Department has also experienced several situations where all prime and high capability land acreage obligations have been met, yet the operator has reclaimed limited capability land to a higher quality than required. In these cases a crop can be managed and should be allowed.

Section 1817.116(a)(3)(F) is proposed to be added, which addresses the revegetation requirements within the responsibility period for small isolated areas which have been subject to minor disturbances and cannot be tested for productivity and ground cover in a typical or effective manner. The regulation is not intended to exclude these areas from the five year responsibility period. These areas will be required to be adequately vegetated, producing hay or crops and controlling erosion as proper management dictates. Compaction alleviation will be required as a prerequisite where the Department anticipates soil compaction has occurred. The concept of restoration of soil productivity through compaction alleviation on these types of disturbances is supported by OSM's preamble justification for leaving subsoil in place on prime farmland. See 59 Fed. Reg. 40837 (October 18, 1994). Additional justification for narrow exceptions to similar rules is found in OSM's preamble discussion of topsoil removal exceptions. See 48 Fed. Reg. 22094 (May 16, 1983). In this case OSM allows state discretion for varying the absolute requirement of topsoil removal when certain minor disturbances occur, even though a "minimal" amount of topsoil will be lost. These situations are analogous to minor disturbed areas where reasonable efforts will be made to restore capabilities and provide erosion control, but the full tests, i.e., yields, have not been determined. This Section is particularly applicable to underground mines which have small, isolated areas surrounded by unaffected land. The testing and harvesting of yields on these areas and developing reference targets poses an unreasonable administrative problem as there is no other representative area being tested.

Section 1817.116(c) is proposed to be added to provide for the use of reference areas to establish target yields in lieu of the Agricultural

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Lands Productivity Formula (ALPF). The Department has attempted to establish a procedure for evaluation and use of the proposed reference area to assure that the area is representative of the fields to be tested. This will include identification of soils and soil quality and provisions for equivalent management practices on both the tested and reference areas. The proposal also provides for the subsequent disuse of the reference area in the situation of unequal management or abnormal growing conditions. One example of abnormal growing conditions would be a hail storm reducing yields on the reference area but not the fields tested. If the reference area is chosen, the permittee is obligated to use those target yields for productivity success. Targets calculated under the Agricultural Lands Productivity Formula will only be used if subsection (c)(8) is applicable. The Department will work in consultation with the Illinois Department of Agriculture in the evaluations of reference areas.

Section 1817.117 sets forth requirements for tree and shrub vegetation. Subsection (a)(1) is proposed to be amended to reflect the amendments to Section 3.15 of the State Act [225 ILCS 720/3.15] which are further discussed above.

Section 1817.117(a)(3) is proposed to be amended to clarify that erosion control structures, including pond embankments within an approved land use of fish and wildlife, forest or recreation, are not required to be planted to trees and shrubs. Tree and shrub growth on embankments is detrimental to their maintenance. (See IDOT's "Guidelines and Forms for Inspection of Illinois Dams", 1987.) The ground cover requirements of subsection (a)(2) are still applicable.

Section 1817.117(b) is proposed to be amended to provide for approval of fish and wildlife habitat area planting designs that are not necessarily uniform throughout the area.

Section 1817.117(c)(1) is proposed to be revised to establish a field system for trees and shrubs similar to that already adopted for agricultural areas.

Section 1817.121 sets forth subsidence control requirements. Section 1817.121(c) is proposed to be amended in response to amendments made to Section 720 of SMCRA by the Energy Policy Act of 1992 regarding water supplies.

Section 1817.131 sets forth requirements for temporary cessation of operations. Two typographical errors are proposed to be corrected in subsection (b). A typographical error is also being corrected in Section 1817.133(a)(2)(c).

Section 1817.151 sets forth requirements for primary roads. The rules do not currently define when road construction is completed or when



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certification is required, nor do the rules currently specify a time limit for submitting the required engineering certification. For clarifying purposes, the proposed amendments to subsection (a) define completion of construction and specify that the certification must be submitted within 30 days after completion.

Section 1817.182 sets forth requirements for minor underground mine facilities not at or adjacent to the processing or preparation facility or area. Typographical errors are proposed to be corrected in subsections (a) and (d)(4), as well as the regulatory cite in subsection (1).

Section 1817.190 sets forth requirements for affected acreage maps. Permittees are currently required to file annual affected acres reports with the county clerk. The permittee is required to submit a proof of filing form with the Department, and often this form is completed incorrectly or a copy is submitted instead of the original, resulting in administrative problems for the Department and duplicate filings with the county clerks. The Department currently forwards various submittals to the county clerks on a weekly basis. It would not be an additional burden to include the affected acres reports in the materials forwarded to the county clerks. Subsections (a) and (b) are therefore proposed to be amended to require the permittee to submit an additional copy of the affected acres report to the Department, which the Department will then forward to the county clerk. In addition, statutory citations in subsection (b) are being updated.

- 6) Will this proposed rule replace an emergency rule currently in effect? No
- 7) Does this rulemaking contain an automatic repeal date? No
- 8) Do these proposed amendments contain incorporations by reference? This rulemaking includes an incorporation by reference, pursuant to Section 5-75 of the IAPA [5 ILCS 100/5-75].
- 9) Are there any other amendments pending on this Part? No
- 10) Statement of Statewide Policy Objectives: The proposed amendments will have no impacts upon local units of government.
- 11) Time, Place, and Manner in which interested persons may comment on this proposed rulemaking: Written comments may be submitted within 45 days of the publication of this notice to:

Karen Jacobs, Legal Counsel  
Illinois Department of Mines and Minerals  
300 West Jefferson, Suite 300  
Springfield, IL 62791-0137  
(217) 782-6791

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Commenters must provide a name and address. Comments must be directed to a specific subsection and must be made on a separate sheet of 8 1/2 x 11 inch paper. Comments may include data, views, arguments or any documents relevant to the proposals noted above in the Description of Subjects and Issues involved. All comments are due at the above address no later than 45 days after publication of this notice. Comments received thereafter will not be considered in this rulemaking.

## 12) Initial Regulatory Flexibility Analysis:

- A) Types of small businesses affected: This rulemaking does not affect small businesses.
- B) Reporting, bookkeeping or other procedures required for compliance: None
- C) Types of professional skills necessary for compliance: None

- 13) State reason(s) for the rulemaking if it was not included in either of the two (2) most recent regulatory agendas: This rulemaking was included in the regulatory agenda published at 19 Ill. Reg. 659-684 (January 20, 1995).

The full text of the Proposed Amendments begins on the next page.

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TITLE 62: MINING  
CHAPTER 1: DEPARTMENT OF MINES AND MINERALS

PART 1817

PERMANENT PROGRAM PERFORMANCE STANDARDS--  
UNDERGROUND MINING OPERATIONS

Section  
1817.11 Signs and Markers  
1817.13 Casing and Sealing of Exposed Underground Openings: General Requirements  
1817.14 Casing and Sealing of Underground Openings: Temporary  
1817.15 Casing and Sealing of Underground Openings: Permanent  
1817.21 Topsoil: General Requirements (Repealed)  
1817.22 Topsoil and Subsoil  
1817.23 Topsoil: Storage (Repealed)  
1817.24 Topsoil: Redistribution (Repealed)  
1817.25 Topsoil: Nutrients and Soil Amendments (Repealed)  
1817.41 Hydrologic Balance Protection  
1817.42 Hydrologic Balance: Water Quality Standards and Effluent Limitations  
1817.43 Diversions  
1817.44 Hydrologic Balance: Stream Channel Diversions (Repealed)  
1817.45 Hydrologic Balance: Sediment Control Measures  
1817.46 Hydrologic Balance: Siltation Structures  
1817.47 Hydrologic Balance: Discharge Structures  
1817.48 Hydrologic Balance: Acid - Forming and Toxic - Forming Materials (Repealed)  
1817.49 Impoundments  
1817.50 Hydrologic Balance: Underground Mine Entry and Access Discharges (Repealed)  
1817.52 Hydrologic Balance: Surface and Ground Water Monitoring (Repealed)  
1817.53 Hydrologic Balance: Transfer of Wells (Repealed)  
1817.55 Hydrologic Balance: Discharge of Water into an Underground Mine (Repealed)  
1817.56 Post - Mining Rehabilitation of Sedimentation Ponds, Diversions, Impoundments and Treatment Facilities  
1817.57 Hydrologic Balance: Stream Buffer Zones  
1817.59 Coal Recovery  
1817.59 Use of Explosives: General Requirements  
1817.61 Use of Explosives: Pre - Blasting Survey  
1817.62 Use of Explosives: General Performance Standards  
1817.64 Use of Explosives: Surface Blasting Requirements (Repealed)  
1817.65 Use of Explosives: Blasting Signs, Warnings, and Access Control  
1817.66 Use of Explosives: Control of Adverse Effects  
1817.67 Use of Explosives: Records of Blasting Operations  
1817.68 Disposal of Excess Spoil: General Requirements  
1817.71 Disposal of Excess Spoil: Valley Fills/Head-of-Hollow Fills  
1817.72 Disposal of Excess Spoil: General Requirements

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1817.73 Disposal of Underground Development Waste and Excess Spoil: Head-of-Hollow Fills (Repealed)  
1817.74 Disposal of Excess Spoil: Durable Rock Fills  
1817.75 Disposal of Excess Spoil: Preexisting Benches  
1817.81 Coal Mine Waste: General Requirements  
1817.82 Coal Processing Waste Banks: Site Inspection (Repealed)  
1817.83 Coal Mine Waste: Refuse Piles  
1817.84 Coal Mine Waste: Impounding Structures  
1817.85 Coal Processing Waste Banks: Construction Requirements (Repealed)  
1817.86 Coal Processing Waste: Burning (Repealed)  
1817.87 Coal Mine Waste: Burning and Burned Waste Utilization  
1817.88 Coal Processing Waste: Return to Underground Workings (Repealed)  
1817.89 Disposal of Noncoal Mine Wastes  
1817.91 Coal Processing Waste: Dams and Embankments: General Requirements (Repealed)  
1817.92 Coal Processing Waste: Dams and Embankments: Site Preparation (Repealed)  
1817.93 Coal Processing Waste: Dams and Embankments: Design and Construction (Repealed)  
1817.94 Coal Processing Waste: Time Requirement for Completion of Covering (Repealed)  
1817.95 Stabilization of Surface Areas  
1817.97 Protection of Fish, Wildlife and Related Environmental Values  
1817.99 Slides and Other Damage  
1817.100 Contemporaneous Reclamation and Subsidence Control  
1817.101 Backfilling and Grading: General Requirements  
1817.102 Backfilling and Grading: General Grading Requirements  
1817.103 Backfilling and Grading: Covering Coal and Acid- and Toxic-forming Materials (Repealed)  
1817.106 Backfilling and Grading: Previously Mined Areas  
1817.107 Backfilling and Grading: Steep Slopes  
1817.111 Revegetation: General Requirements  
1817.112 Revegetation: Use of Introduced Species (Repealed)  
1817.113 Revegetation: Timing  
1817.114 Revegetation: Mulching and Other Soil Stabilization Practices  
1817.115 Revegetation: Grazing (Repealed)  
1817.116 Revegetation: Standards for Success  
1817.117 Revegetation: Tree and Shrub Vegetation  
1817.121 Subsidence Control  
1817.122 Subsidence Control: Public Notice  
1817.124 Subsidence Control: Surface Owner Protections (Repealed)  
1817.126 Subsidence Control: Buffer Zones (Repealed)  
1817.131 Cessation of Operations: Temporary  
1817.132 Cessation of Operations: Permanent  
1817.133 Post - Mining Land Capability  
1817.150 Roads: General  
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1817.180 Utility Installations

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- 1817.181 Support Facilities  
 1817.182 Minor Underground Mine Facilities Not at or Adjacent to the Processing or Preparation Facility or Area  
 1817.190 Affected Acreage Map

**AUTHORITY:** Implementing and authorized by the Surface Coal Mining Land Conservation and Reclamation Act (Ill. Rev. Stat. 1991, ch. 96 1/2, pars. 7901.01 et seq.) [225 ILCS 7201].

**SOURCE:** Adopted at 4 Ill. Reg. 37, p. 1, effective June 1, 1982; amended at 6 Ill. Reg. 1, effective June 1, 1982; amended at 6 Ill. Reg. 15024, effective December 30, 1982; codified at 8 Ill. Reg. 8230; amended at 9 Ill. Reg. 13315, effective October 10, 1985; amended at 10 Ill. Reg. 9606, effective July 1, 1986; amended at 11 Ill. Reg. 8250, effective July 1, 1987; amended at 14 Ill. Reg. 11855, effective January 1, 1991; amended at 15 Ill. Reg. 17239, effective January 1, 1992; amended at 17 Ill. Reg. 11031, effective July 1, 1993; amended at 19 Ill. Reg. \_\_\_\_\_, effective \_\_\_\_\_.

### Section 1817.13 Casing and Sealing of Exposed Underground Openings: General Requirements

Each exploration hole, other drillhole or borehole, shaft, well, or other exposed underground opening shall be backfilled ~~cased, lined, or otherwise managed~~, as approved by the Illinois Department of Mines and Minerals (Department), to prevent acid or other toxic drainage from entering ground and surface waters, to minimize disturbance to the prevailing hydrologic balance, and to ensure the safety of people, livestock, fish and wildlife, and machinery in the permit area and adjacent area. Each exploration hole, drillhole or borehole, or well that is uncovered or exposed by mining activities within the permit area shall be permanently backfilled ~~cased~~, unless approved for water monitoring ~~or otherwise managed in a manner approved by the Department~~. Use of a drilled hole or borehole, or monitoring well as a water well must meet the provisions of Section 1817.41. This Section does not apply to holes solely drilled and used for blasting in the area affected by surface operations.

(Source: Amended at 19 Ill. Reg. \_\_\_\_\_, effective \_\_\_\_\_)

### Section 1817.15 Casing and Sealing of Underground Openings: Permanent

When no longer needed for monitoring or other use approved by the Department upon a finding of no adverse environmental or health and safety effects, or unless approved for transfer as a water well under Section 1817.41, each shaft, drift, adit, tunnel, exploratory hole, entryway, or other opening to the surface from underground shall be backfilled ~~capped, sealed, backfilled, or otherwise properly managed~~, as required by the Department, in accordance with Sections 1817.13 and consistent with 30 CFR 75.1711. Permanent closure measures shall be designed to prevent access to the mine workings by people, livestock,

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fish and wildlife, and machinery, and to keep acid or other toxic drainage from entering ground or surface waters.

(Source: Amended at 19 Ill. Reg. \_\_\_\_\_, effective \_\_\_\_\_)

### Section 1817.22 Topsoil and Subsoil

#### a) Removal.

- 1) All topsoil shall be removed as a separate layer from the area to be disturbed, and segregated. Where topsoil is of insufficient quantity or poor quality for sustaining vegetation, the materials approved by the Department in accordance with subsection (b) shall be removed as a separate layer from the area to be disturbed, and segregated.
- 2) If topsoil is less than six (6) inches thick and no substitutes or supplements are approved in accordance with subsection (b), the operator shall remove a six (6) inch layer that includes the A horizon and the unconsolidated materials immediately below or the A horizon and all unconsolidated material if the total available is less than six (6) inches and treat the mixture as topsoil.
- 3) The Department shall not require the removal of topsoil for minor disturbances which:
  - A) Occur at the site of small structures, such as power poles, signs, fence lines or markers; or
  - B) Will not destroy the existing vegetation, will not cause erosion and will not degrade the quality or limit the future use of the soil.
- 4) All material to be removed under this section shall be removed after the vegetative cover that would interfere with its salvage is cleared from the area to be disturbed, but before any drilling, blasting or mining or other surface disturbance takes place.

#### b) Substitutes and supplements.

- 1) Selected overburden materials may be substituted for, or used as a supplement to, topsoil if the operator demonstrates to the Department that the resulting soil medium is equal to, or more suitable for, sustaining vegetation than the existing topsoil, and the resulting soil medium is the best available in the permit area to support revegetation. The demonstration shall be based upon the information requirements of 62 Ill. Adm. Code 1784.13(b)(4).
- 2) A plan for topsoil substitutes or supplements will be considered a significant revision subject to the public review provisions of 62 Ill. Adm. Code 1773 and 1774, except when the extent of the area of topsoil substitutes or supplements is less than ten (10) percent of the permit area or fifty (50) acres, whichever is less; the topsoils to be substituted or supplemented are not



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**Prime-farm-land--and-the-plan-otherwise-meets-the-requirements-of 62-III-Adm--Code-1774-13(b)(2):****c) Storage.**

- 1) Materials removed under subsection (a) if not redistributed immediately shall be segregated and stockpiled.
- 2) Stockpiled materials shall:
  - A) Be selectively placed on a stable site within the permit area;
  - B) Be protected from contaminants and unnecessary compaction that would interfere with revegetation;
  - C) Be protected from wind and water erosion through prompt establishment and maintenance of an effective, quick growing vegetative cover or through other measures equally effective in controlling erosion approved by the Department; and
  - D) Not be moved until required for redistribution unless approved by the Department.

- 3) Where long-term surface disturbances will result from facilities such as support facilities and preparation plants and where stockpiling of materials removed under subsection (a)(1) would be detrimental to the quality or quantity of those materials, the Department shall approve the temporary distribution of the soil materials so removed to an approved site within the permit area to enhance the current use of that site until needed for later reclamation provided that:
  - A) Such action will not permanently diminish the capability of the topsoil of the host site; and
  - B) The material will be retained in a condition more suitable for redistribution than if stockpiled.

**d) Redistribution.**

- 1) Topsoil materials removed under subsection (a) shall be redistributed in a manner that:
  - A) Achieves an approximate, uniform, stable thickness consistent with the approved post-mining land use, contours and surface water drainage systems;
  - B) Prevents excess compaction of the materials; and
  - C) Protects the materials from wind and water erosion and contamination before and after seeding and planting.
- 2) Before redistribution of the material removed under subsection (a) the regraded land shall be treated if necessary to reduce potential slippage of the redistributed material and to promote root penetration. If no harm will be caused to the redistributed material and reestablished vegetation such treatment may be conducted after such material is replaced.
- 3) The Department shall not require the redistribution of topsoil or topsoil substitutes on the approved post-mining embankments of permanent impoundments or of roads if it determines that:
  - A) Placement of topsoil or topsoil substitutes on such embankments is inconsistent with the requirement to use the

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best technology currently available to prevent sedimentation; and

B) Such embankments will otherwise be stabilized.

- 4) Nutrients and soil amendments shall be applied to the initially redistributed material when necessary to establish the required vegetative cover.

**e) Subsoil segregation.**

The Department shall require that the B horizon, C horizon or other underlying strata, or portions thereof, be removed and segregated, stockpiled, and redistributed as subsoil in accordance with subsections (c) and (d) if it finds that such subsoil layers are necessary to comply with the revegetation requirements of Sections 1817.111, 1817.113, 1817.114, 1817.116 and 1817.117.

(Source: Amended at 19 Ill. Reg. \_\_\_\_\_, effective \_\_\_\_\_)

**Section 1817.41 Hydrologic Balance Protection****a) General.**

All Underground mining and reclamation activities shall be conducted to minimize disturbance of the hydrologic balance within the permit and adjacent areas, to prevent material damage to the hydrologic balance outside the permit area such as diminution of recharge capacity, and to support approved post-mining land uses in accordance with the terms and conditions of the approved permit and the performance standards of this Part. The Department shall require additional preventative, remedial, or monitoring measures to assure that material damage to the hydrologic balance outside the permit area is prevented if the current approved plan is not sufficient to assure this protection. Mining and reclamation practices that minimize water pollution and changes in flow shall be used in preference to water treatment.

**b)**

Ground water protection. In order to protect the hydrologic balance, underground mining activities shall be conducted according to the plan approved under 62 Ill. Adm. Code 1734.14(g). Ground water quality shall be protected by handling earth materials and runoff in a manner that minimizes acidic, toxic, or other harmful infiltration to ground water systems and by managing excavations and other disturbances to prevent or control the discharge of pollutants into the ground water.

**c)**

Ground water monitoring shall be conducted according to the ground water monitoring plan approved under 62 Ill. Adm. Code 1784.14(h). If unanticipated conditions develop, or if an approved operation or reclamation plan is modified or revised, such that the current monitoring program would not detect possible adverse impacts to the hydrologic balance, then the Department shall require additional monitoring including, but not

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limited to, increased monitoring frequency, additional monitoring wells, or change in the number of parameters being monitored, when it is determined that the proposed, or approved, monitoring plan is not adequate to detect adverse impacts to the hydrologic balance.

- 2) Ground water monitoring data shall be submitted every three (3) months to the Department or more frequently if necessary to detect possible adverse impacts to the hydrologic balance as prescribed by the Department. Ground water monitoring reports shall be submitted by the first day of the second month following the reporting period, unless the Department specifies an alternative reporting schedule. Monitoring reports shall include analytical results from each sample taken during the reporting period. When the analysis of any ground water sample indicates noncompliance with the permit conditions, then the operator shall promptly notify the Department and immediately take the actions provided for in 62 Ill. Adm. Code 1773.17(e) and 1784.14(g).
- 3) Ground water monitoring shall proceed through mining and continue during reclamation until bond release. Consistent with the procedures of 62 Ill. Adm. Code 1774.13, the Department may modify the monitoring requirements when such changes do not diminish the ability to detect adverse impacts to the hydrologic balance, including the parameters covered and the sampling frequencies, if the operator demonstrates, using the monitoring data obtained under this subsection that:
  - A) The operation has minimized disturbance to the prevailing hydrologic balance in the permit and adjacent areas and prevented material damage to the hydrologic balance outside the permit area; water quality and quantity are suitable to support approved post-mining land uses; or
  - B) Monitoring is no longer necessary to achieve the purposes set forth in the monitoring plan approved under 62 Ill. Adm. Code 1784.14(h).

- 4) Equipment, structures, and other devices used in conjunction with monitoring the quality and quantity of ground water onsite and offsite shall be properly installed, maintained, and operated and shall be removed by the operator when no longer needed, except as provided for under subsection (g).

- d) Surface water protection. In order to protect the hydrologic balance, underground mining activities shall be conducted according to the plan approved under 62 Ill. Adm. Code 1784.14(g) and the following:

- 1) Surface water quality shall be protected by handling earth materials, groundwater discharges, and runoff in a manner that minimizes the formation of acidic or toxic drainages; prevents, to the extent possible using the best technology currently available, additional contributions of suspended solids to streamflow outside the permit area; and otherwise prevents water pollution. If drainage control, stabilization and revegetation

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of disturbed areas, diversion of runoff, mulching, or other reclamation and remedial practices are not adequate to meet the requirements of this Section and Section 1817.42, the operator shall use and maintain the necessary water treatment facilities or water quality controls.

- 2) Surface water quantity and flow rates shall be protected by handling earth materials and runoff in accordance with the steps outlined in the plan approved under 62 Ill. Adm. Code 1784.14(g).
- e) Surface water monitoring.
  - 1) Surface water monitoring shall be conducted according to the surface water monitoring plan approved under 62 Ill. Adm. Code 1784.14(i). If unanticipated conditions develop, or if an approved operation or reclamation plan is modified or revised, such that the current monitoring program would not detect possible adverse impacts to the hydrologic balance, then the Department shall require additional monitoring including, but not limited to, changes in the number of parameters or frequency of sample collection when it is determined that the approved plan is not designed to detect adverse impacts to the hydrologic balance.
  - 2) Surface water monitoring data shall be submitted to the Department every three (3) months, or more frequently if necessary to detect possible adverse impacts to the hydrologic balance as prescribed by the Department. This shall include, but not necessarily be limited to, copies of reports submitted for the National Pollutant Discharge Elimination System (NPDES) sent to the Illinois Environmental Protection Agency (EPA). Copies of NPDES reports shall be sent to the Department ~~concurrently with those sent to the Illinois EPA~~ by the first day of the second month following the reporting period. Monitoring reports shall include analytical results from each sample taken during the reporting period. When the analytical results of any surface water sample indicates noncompliance with the permit conditions, the operator shall notify the Department within five (5) days and immediately take the actions provided for in 62 Ill. Adm. Code 1773.17(e) and 1784.14(g). The reporting requirements of this subsection do not exempt the operator from meeting any NPDES reporting requirements.
  - 3) Surface water monitoring shall proceed through mining and continue until bond release. Consistent with 62 Ill. Adm. Code 1774.13, the Department may modify the monitoring requirements, except those required by the Illinois EPA, when such changes to the approved plan do not diminish the ability to detect adverse impacts to the hydrologic balance, including the parameters covered and sampling frequency if the operator demonstrates using the monitoring data that:
    - A) The operation has minimized disturbance to the hydrologic balance in the permit and adjacent areas and prevented material damage to the hydrologic balance outside the permit

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area; water quantity and quality are suitable to support approved post-mining land uses; and

- B) Monitoring is no longer necessary to achieve the purposes set forth in the monitoring plan approved under 62 Ill. Adm. Code 1784.14(i).

- 4) Equipment, structures, and other devices used in conjunction with monitoring the quality and quantity of surface water onsite and offsite shall be properly installed, maintained, and operated and shall be removed by the operator when no longer needed, except as provided for in Section 1817.49(b).

f) Acid- and toxic-forming materials.

- 1) Drainage from acid- and toxic-forming materials and underground development waste into surface water and ground water shall be avoided by:

A) Identifying and burying and/or treating, when necessary, materials which may adversely affect water quality, or be detrimental to vegetation or to public health and safety if not buried and/or treated; and

B) Storing materials in a manner that will protect surface water and ground water by preventing erosion, the formation of polluted runoff, and the infiltration of polluted water. Storage shall be limited to the period until burial and/or treatment first become feasible, and so long as storage will not result in any risk of water pollution or other environmental damage.

- 2) Storage, burial or treatment practices shall be consistent with other material handling and disposal provisions of Section 1817.102.

- g) Before final release of bond, exploratory or monitoring wells shall be sealed in a safe and environmentally sound manner in accordance with Sections 1817.13 and 1817.15. With prior approval of the Department, wells may be transferred to another party for further use. At a minimum, the conditions of such transfer shall comply with State and local law and the permittee shall remain responsible for the proper management of the well until bond release in accordance with Sections 1817.13 and 1817.15.

- h) Discharge of water into an underground mine

1) Discharges into an underground mine are prohibited, unless specifically approved by the Department after a demonstration that the discharge will:

A) Minimize disturbance to the hydrologic balance on the permit area, prevent material damage outside the permit area and otherwise eliminate public hazards resulting from underground mining activities;

B) Not result in a violation of water quality standards or effluent limitations set forth in Section 1817.42;

C) Be at a known rate and quality which shall meet the effluent limitations of 62 Ill. Adm. Code 1817.42 for pH and total

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suspended solids, except that the Department may allow pH and total suspended solids to exceed effluent limits so long as they will not result in any adverse impacts to the hydrologic balance; and

- D) Meet with the approval of the Mine Safety and Health Administration.

- 2) Discharges shall be limited to the following:

A) Water;

B) Coal processing waste;

C) Fly ash from a coal-fired facility;

D) Sludge from an acid-mine drainage treatment facility;

E) Flue-gas desulfurization sludge;

F) Inert materials used for stabilizing underground mines; and

G) Underground mine development wastes.

- 3) Water from one underground mine may be diverted into other underground workings according to the requirements of this Section.

- i) Gravity discharges from underground mines.

1) Surface entries and accesses to underground workings shall be located and managed to prevent or control gravity discharge of water from the mine. Gravity discharges of water from an underground mine, other than a drift mine subject to subsection (i)(2), shall be allowed by the Department if it is demonstrated that the untreated or treated discharge complies with the performance standards of this Part and any additional NPDES permit requirements.

- 2) Notwithstanding anything to the contrary in subsection (i)(1), the surface entries and accesses of drift mines located in acid - producing or iron-producing coal seams shall be located in such a manner as to prevent any gravity discharge from the mine.

(Source: Amended at 19 Ill. Reg. \_\_\_\_\_, effective \_\_\_\_\_)

## Section 1817.46 Hydrologic Balance: Siltation Structures

- a) Definitions. For the purpose of this Section only:

1) Siltation structure means a sedimentation pond, a series of sedimentation ponds, or other treatment facility.

2) Disturbed area shall not include those areas:

A) In which the only underground mining activities include diversion ditches, siltation structures, or roads that are designed, constructed, and maintained in accordance with this Part; and

B) For which the upstream area is not otherwise disturbed by the permittee.

- 3) Other treatment facilities means any chemical treatments, such as flocculation, or mechanical structures, such as clarifiers, that



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have a point - source discharge and that are utilized to prevent additional contributions of suspended solids to stream flow or runoff outside the permit area.

## b) General Requirements.

- 1) Additional contributions of suspended solids and sediment to stream flow or runoff outside the permit area shall be prevented to the extent possible using the best technology currently available.
  - 2) All surface drainage from the disturbed area shall be passed through a siltation structure before leaving the permit area, except as provided in subsection (b)(5) or (e).
  - 3) Siltation structures for an area shall be constructed before beginning any underground mining activities in that area and, upon construction, shall be sealed by a qualified registered professional engineer to be constructed as designed and as approved in the reclamation plan.
  - 4) Any siltation structure which impounds water shall be designed, constructed, and maintained in accordance with Section 1817.49.
  - 5) Siltation structures shall be maintained until removal is authorized by the Department and the disturbed area has been stabilized and revegetated. In no case shall the structure be removed sooner than two (2) years after the last augmented seeding.
  - 6) When a siltation structure is removed, the land on which the siltation structure was located shall be regraded and revegetated in accordance with the reclamation plan and Sections 1817.111 through 1817.117. Sedimentation ponds approved by the Department for retention as permanent impoundments shall be exempted from this requirement.
  - 7) Any point - source discharge of water from underground workings to surface waters which does not meet the effluent limitations of Section 1817.42 shall be passed through a siltation structure before leaving the permit area.
  - 8) The Department encourages the retention of sedimentation ponds which will receive drainage from agricultural areas in the post - mining land use plan.
- c) Sedimentation ponds.
- 1) When used, sedimentation ponds shall:
    - A) Be used individually or in series;
    - B) Be located as near as possible to the disturbed area and out of perennial streams unless approved by the Department in accordance with Section 1817.57; and
    - C) Be designed, constructed, and maintained to:
      - i) Provide adequate sediment storage volume;
      - ii) Provide adequate detention time to allow the effluent from the ponds to meet effluent limitations specified in Section 1817.42;
      - iii) Contain or treat the ten (10) year, twenty-four

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- (24) hour precipitation event ("design event") unless a lesser design event is approved by the Department based on terrain, climate, other site specific conditions, and on a demonstration by the permittee that the effluent limitations of Section 1817.42 will be met;
- iv) Provide a nonclogging dewatering device adequate to maintain the detention time required under subsection (c)(1)(C)(iii);
- v) Minimize, to the extent possible, short circuiting;
- vi) Provide periodic sediment removal sufficient to maintain adequate volume for the design event;
- vii) Ensure against excessive settlement;
- viii) Be free of sod, large roots, frozen soil, and acid- or toxic-forming coal processing waste; and
- ix) Be compacted properly.

## 2) Sedimentation pond discharge structures shall be designed according to the following:

- A) Sedimentation ponds meeting the size or other qualifying criteria of 30 CFR 77.216(a) ~~(1986)~~ (1994) shall comply with all the requirements of 30 CFR 77.216 ~~(1986)~~ (1994) and shall have principal and emergency spillways that in combination will safely pass a one hundred (100) year, six (6) hour precipitation event; and
  - B) Sedimentation ponds not meeting the size or other qualifying criteria of 30 CFR 77.216(a) ~~(1986)~~ (1994) shall provide a combination of principal and emergency spillways that will safely discharge a twenty-five (25) year, six (6) hour precipitation event. Such ponds may use a single spillway if the spillway:
    - i) Is an open channel of nonerodible construction and capable of maintaining sustained flows; and
    - ii) Is not earth- or grass-lined.
  - C) 30 CFR 77.216 ~~(1986)~~ (1994) does not include any later amendments or editions.
- d) Other treatment facilities.
- 1) Other treatment facilities shall be designed to treat the ten (10) year, twenty-four (24) hour precipitation event unless a lesser design event is approved by the Department based on terrain, climate, other site - specific conditions, and a demonstration by the permittee that the effluent limitations of Section 1817.42 will be met.
  - 2) Other treatment facilities shall be designed in accordance with the applicable requirements of subsection (c).
  - e) Exemptions. Exemptions to the requirements ~~of this Section~~ to pass all drainage from disturbed areas through a siltation structure may be granted if:

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- 1) The disturbed drainage area within the total disturbed area is small; and
- 2) A) Alternate sediment control measures as described in Section 1817.45(b) are used in lieu of a siltation structure, and the permittee demonstrates that siltation structures are not necessary for drainage from the disturbed area to meet the effluent limitations and water quality standards for the receiving waters set forth in Section 1817.42; or
- B) The permittee demonstrates that siltation structures and alternate sediment control measures are not necessary for drainage from the disturbed drainage areas to meet the effluent limitations and water quality standards for the receiving waters set forth in Section 1817.42.

(Source: Amended at 19 Ill. Reg. \_\_\_\_\_, effective \_\_\_\_\_)

## Section 1817.97 Protection of Fish, Wildlife and Related Environmental Values

- a) The operator shall, to the extent possible using the best technology currently available, minimize disturbances and adverse impacts of the activities on fish, wildlife, and related environmental values, and shall achieve enhancement of such resources where practicable.
- b) No underground mining activity shall be conducted which is likely to jeopardize the continued existence of endangered or threatened species listed by the Secretary of the United States Department of the Interior (Secretary) or which is likely to result in the destruction or adverse modification of designated critical habitats of such species in violation of the Endangered Species Act of 1973, as amended, (16 U.S.C. 1531 et seq.) ~~or the Illinois--Endangered--Species Protection--Act--(411--Rev--Stat--1987--ch--87--par--931--et--seq--7).~~ The operator shall immediately report to the Department any State- or federally-listed endangered or threatened species within the permit area of which the operator becomes aware. Upon notification, the Department shall consult with appropriate State and Federal fish and wildlife agencies and, after consultation, shall identify whether, and under what conditions, the operator may proceed.
- c) No underground mining activity shall be conducted in a manner which would result in the unlawful taking of a bald or golden eagle, its nest, or any of its eggs. The operator shall promptly report to the Department any golden or bald eagle nest within the permit area of which the operator becomes aware. Upon notification, the Department shall consult with the U.S. Fish and Wildlife Service and also, where appropriate, the State fish and wildlife agency and after consultation, shall identify whether, and under what conditions, the operator may proceed in order to ensure that the operation is not in violation of the Endangered Species Act of 1973, as amended, (16

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- U.S.C. 1531 et seq.).
- d) Nothing in these regulations shall authorize the taking of an endangered or threatened species or a bald or golden eagle, its nest, or any of its eggs in violation of the Endangered Species Act of 1973, as amended, (16 U.S.C. 1531 et seq.), or the Bald Eagle Protection Act, as amended, (16 U.S.C. 668 et seq.).
- e) Each operator shall, to the extent possible using the best technology currently available:
- 1) Ensure that electric powerlines and other transmission facilities used for, or incidental to, underground mining activities on the permit area are designed and constructed to minimize electrocution hazards to raptors, except where the Department determines that such requirements are unnecessary due to factors, such as the absence of raptors;
  - 2) Locate and operate haul and access roads so as to avoid or minimize impacts on important fish and wildlife species or other species protected by State or Federal law specified in 62 Ill. Adm. Code 1773.12;
  - 3) Design fences, overland conveyers, and other potential barriers to permit passage for large mammals, except where the Department determines that such requirements are unnecessary due to factors, such as the absence of large mammals; and
  - 4) Fence, cover, or use other appropriate methods to exclude wildlife from ponds which contain hazardous concentrations of toxic-forming materials.
- f) The operator conducting underground mining activities shall avoid disturbances to, enhance where practicable, restore, or replace, wetlands, and riparian vegetation along rivers and streams and bordering ponds and lakes. Underground mining activities shall avoid disturbances to, enhance where practicable, or restore, habitats of unusually high value for fish and wildlife such as wetlands and riparian vegetation.
- g) Where fish and wildlife habitat is to be a post-mining land use, the plant species to be used on reclaimed areas shall be selected on the basis of the following criteria:
- 1) Their proven nutritional value for fish or wildlife.
  - 2) Their use as cover for fish or wildlife.
  - 3) Their ability to support and enhance fish or wildlife habitat after the release of performance bonds. The selected plants shall be grouped and distributed in a manner which optimizes edge effect, cover, and other benefits to fish and wildlife.
- h) Where cropland is to be the post-mining land use, where appropriate for wildlife and crop management practices, the operator shall intersperse the fields with trees, hedges, or fence rows throughout the harvested area to break up large blocks of monoculture and to diversify habitat types for birds and other animals.
- i) Where residential, public service, or industrial uses are to be the post-mining land use, and where consistent with the approved

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post-mining land use, the operator shall intersperse reclaimed lands with greenbelts utilizing species of grass, shrubs, and trees useful as food and cover for wildlife.

(Source: Amended at 19 Ill. Reg. \_\_\_\_\_, effective \_\_\_\_\_)

**Section 1817.116 Revegetation: Standards for Success****a) Success of Revegetation**

- 1) Success of revegetation shall be judged in accordance with Sections 1817.116 and 1817.117.

**2) Requirements**

A) The period of extended responsibility for successful revegetation shall begin after the last year of augmented seeding, fertilizing, irrigation, or other work, excluding husbandry practices that are approved by the Department in accordance with subsection (a)(2)(C) below.

B) The period of extended responsibility shall continue for a period of not less than five (5) full years, except that on lands eligible for reining, the period of responsibility (until September 30, 2004) shall be two (2) full years. Vegetation parameters identified in subsection (a)(1) above shall equal or exceed the approved standard set forth in subsection (a)(3) below.

C) The Department shall approve selective husbandry practices, excluding irrigation or augmented seeding or augmented fertilization, without extending the period of responsibility for revegetation success and bond liability, if such practices can be expected to continue as part of the post-mining land use or if discontinuance of the practices after the liability period expires will not reduce the probability of permanent revegetation success. Approved practices shall be normal conservation and land use management practices within the region for unmined lands having land uses similar to the approved post-mining land use of the disturbed area, including such practices as diseases, pest, and vermin control; any pruning, reseeding and/or transplanting specifically necessitated by such actions; approved agricultural practices described in the Illinois Agronomy Handbook (1993-94); and those practices which are a part of an approved conservation plan subject to the Food, Agriculture, Conservation and Trade Act of 1990 (7 U.S.C. 1421 et seq.). On all lands with a post-mining land use other than cropland, any areas reseeded or replanted as a part or result of a normal husbandry practice must be sufficiently small in size and limited in extent of occurrence, or part of a hay management plan which is an

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agricultural practice described by the Illinois Agronomy Handbook or as part of an approved conservation plan subject to the Food, Agriculture, Conservation and Trade Act of 1990, and the reestablished vegetation must be in place for a sufficient length of time so as not to adversely affect the Department's ability to make a valid determination at the time of bond release as to whether the site has been properly reclaimed to a condition in which it will support a diverse, effective, permanent vegetative cover of the required nature and productivity. The Illinois Agronomy Handbook is published by the University of Illinois-Cooperative Extension Service, Office of Agricultural Communications and Education, 69E Mumford Hall, 1301 West Gregory Drive, Urbana, Illinois 61801. Copies of the Illinois Agronomy Handbook and the Food, Agriculture, Conservation and Trade Act of 1990 are available at the Department's Springfield office located at 300 West Jefferson, Suite 300, P.O. Box 10197, Springfield, Illinois 62791-0197.

D) Rill and gully repair on cropland-capable reclaimed land will not be considered augmentation if an operator has an approved erosion control plan in place in the field pursuant to 62 Ill. Adm. Code 1823.14(g) or 1825.14(f), and shortly after the first rainfall event after the repair, the Department makes the following determinations:

- i) the area is a minor erosional feature;
- ii) the area is small;
- iii) the erosion is not expected to recur; and
- iv) the area is stable.

The Department shall notify the permittee in writing whether or not a repair is augmentative. Such written notice shall be in the form of an inspection report or other document issued by the Department.

E) Rill and gully repair on noncropland-capable land will not be considered augmentation if, shortly after the first rainfall event after the repair, the Department makes the following determinations:

- i) the area is a minor erosional feature;
- ii) the area is small;
- iii) the erosion is not expected to recur; and
- iv) the area is stable.

The Department shall notify the permittee in writing whether or not a repair is augmentative. Such written notice shall be in the form of an inspection report or other document issued by the Department.

**F) Augmentation**

1) In those cases where a permittee augments any cropland areas in order to achieve the revegetation success



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standards-of-subsection-(a)-(b)-(c)-(d)-(e)-(f)-(g)-(h)-(i)-(j)-(k)-(l)-(m)-(n)-(o)-(p)-(q)-(r)-(s)-(t)-(u)-(v)-(w)-(x)-(y)-(z)-(aa)-(ab)-(ac)-(ad)-(ae)-(af)-(ag)-(ah)-(ai)-(aj)-(ak)-(al)-(am)-(an)-(ao)-(ap)-(aq)-(ar)-(as)-(at)-(au)-(av)-(aw)-(ax)-(ay)-(az)-(ba)-(bb)-(bc)-(bd)-(be)-(bf)-(bg)-(bh)-(bi)-(bj)-(bk)-(bl)-(bm)-(bn)-(bo)-(bp)-(bq)-(br)-(bs)-(bt)-(bu)-(bv)-(bw)-(bx)-(by)-(bz)-(ca)-(cb)-(cc)-(cd)-(ce)-(cf)-(cg)-(ch)-(ci)-(cj)-(ck)-(cl)-(cm)-(cn)-(co)-(cp)-(cq)-(cr)-(cs)-(ct)-(cu)-(cv)-(cw)-(cx)-(cy)-(cz)-(da)-(db)-(dc)-(dd)-(de)-(df)-(dg)-(dh)-(di)-(dj)-(dk)-(dl)-(dm)-(dn)-(do)-(dp)-(dq)-(dr)-(ds)-(dt)-(du)-(dv)-(dw)-(dx)-(dy)-(dz)-(ea)-(eb)-(ec)-(ed)-(ee)-(ef)-(eg)-(eh)-(ei)-(ej)-(ek)-(el)-(em)-(en)-(eo)-(ep)-(eq)-(er)-(es)-(et)-(eu)-(ev)-(ew)-(ex)-(ey)-(ez)-(fa)-(fb)-(fc)-(fd)-(fe)-(ff)-(fg)-(fh)-(fi)-(fj)-(fk)-(fl)-(fm)-(fn)-(fo)-(fp)-(fq)-(fr)-(fs)-(ft)-(fu)-(fv)-(fw)-(fx)-(fy)-(fz)-(ga)-(gb)-(gc)-(gd)-(ge)-(gf)-(gg)-(gh)-(gi)-(gj)-(gk)-(gl)-(gm)-(gn)-(go)-(gp)-(gq)-(gr)-(gs)-(gt)-(gu)-(gv)-(gw)-(gx)-(gy)-(gz)-(ha)-(hb)-(hc)-(hd)-(he)-(hf)-(hg)-(hh)-(hi)-(hj)-(hk)-(hl)-(hm)-(hn)-(ho)-(hp)-(hq)-(hr)-(hs)-(ht)-(hu)-(hv)-(hw)-(hx)-(hy)-(hz)-(ia)-(ib)-(ic)-(id)-(ie)-(if)-(ig)-(ih)-(ii)-(ij)-(ik)-(il)-(im)-(in)-(io)-(ip)-(iq)-(ir)-(is)-(it)-(iu)-(iv)-(iw)-(ix)-(iy)-(iz)-(ja)-(jb)-(jc)-(jd)-(je)-(jf)-(jg)-(jh)-(ji)-(jj)-(jk)-(jl)-(jm)-(jn)-(jo)-(jp)-(jq)-(jr)-(js)-(jt)-(ju)-(jv)-(jw)-(jx)-(jy)-(jz)-(ka)-(kb)-(kc)-(kd)-(ke)-(kf)-(kg)-(kh)-(ki)-(kj)-(kk)-(kl)-(km)-(kn)-(ko)-(kp)-(kq)-(kr)-(ks)-(kt)-(ku)-(kv)-(kw)-(kx)-(ky)-(kz)-(la)-(lb)-(lc)-(ld)-(le)-(lf)-(lg)-(lh)-(li)-(lj)-(lk)-(ll)-(lm)-(ln)-(lo)-(lp)-(lq)-(lr)-(ls)-(lt)-(lu)-(lv)-(lw)-(lx)-(ly)-(lz)-(ma)-(mb)-(mc)-(md)-(me)-(mf)-(mg)-(mh)-(mi)-(mj)-(mk)-(ml)-(mm)-(mn)-(mo)-(mp)-(mq)-(mr)-(ms)-(mt)-(mu)-(mv)-(mw)-(mx)-(my)-(mz)-(na)-(nb)-(nc)-(nd)-(ne)-(nf)-(ng)-(nh)-(ni)-(nj)-(nk)-(nl)-(nm)-(no)-(np)-(nq)-(nr)-(ns)-(nt)-(nu)-(nv)-(nw)-(nx)-(ny)-(nz)-(oa)-(ob)-(oc)-(od)-(oe)-(of)-(og)-(oh)-(oi)-(oj)-(ok)-(ol)-(om)-(on)-(oo)-(op)-(oq)-(or)-(os)-(ot)-(ou)-(ov)-(ow)-(ox)-(oy)-(oz)-(pa)-(pb)-(pc)-(pd)-(pe)-(pf)-(pg)-(ph)-(pi)-(pj)-(pk)-(pl)-(pm)-(pn)-(po)-(pp)-(pq)-(pr)-(ps)-(pt)-(pu)-(pv)-(pw)-(px)-(py)-(pz)-(qa)-(qb)-(qc)-(qd)-(qe)-(qf)-(qg)-(qh)-(qi)-(qj)-(qk)-(ql)-(qm)-(qn)-(qo)-(qp)-(qq)-(qr)-(qs)-(qt)-(qu)-(qv)-(qw)-(qx)-(qy)-(qz)-(ra)-(rb)-(rc)-(rd)-(re)-(rf)-(rg)-(rh)-(ri)-(rj)-(rk)-(rl)-(rm)-(rn)-(ro)-(rp)-(rq)-(rr)-(rs)-(rt)-(ru)-(rv)-(rw)-(rx)-(ry)-(rz)-(sa)-(sb)-(sc)-(sd)-(se)-(sf)-(sg)-(sh)-(si)-(sj)-(sk)-(sl)-(sm)-(sn)-(so)-(sp)-(sq)-(sr)-(ss)-(st)-(su)-(sv)-(sw)-(sx)-(sy)-(sz)-(ta)-(tb)-(tc)-(td)-(te)-(tf)-(tg)-(th)-(ti)-(tj)-(tk)-(tl)-(tm)-(tn)-(to)-(tp)-(tq)-(tr)-(ts)-(tt)-(tu)-(tv)-(tw)-(tx)-(ty)-(tz)-(ua)-(ub)-(uc)-(ud)-(ue)-(uf)-(ug)-(uh)-(ui)-(uj)-(uk)-(ul)-(um)-(un)-(uo)-(up)-(uq)-(ur)-(us)-(ut)-(uu)-(uv)-(uw)-(ux)-(uy)-(uz)-(va)-(vb)-(vc)-(vd)-(ve)-(vf)-(vg)-(vh)-(vi)-(vj)-(vk)-(vl)-(vm)-(vn)-(vo)-(vp)-(vq)-(vr)-(vs)-(vt)-(vu)-(vv)-(vw)-(vx)-(vy)-(vz)-(wa)-(wb)-(wc)-(wd)-(we)-(wf)-(wg)-(wh)-(wi)-(wj)-(wk)-(wl)-(wm)-(wn)-(wo)-(wp)-(wq)-(wr)-(ws)-(wt)-(wu)-(wv)-(ww)-(wx)-(wy)-(wz)-(xa)-(xb)-(xc)-(xd)-(xe)-(xf)-(xg)-(xh)-(xi)-(xj)-(xk)-(xl)-(xm)-(xn)-(xo)-(xp)-(xq)-(xr)-(xs)-(xt)-(xu)-(xv)-(xw)-(xx)-(xy)-(xz)-(ya)-(yb)-(yc)-(yd)-(ye)-(yf)-(yg)-(yh)-(yi)-(yj)-(yk)-(yl)-(ym)-(yn)-(yo)-(yp)-(yq)-(yr)-(ys)-(yt)-(yu)-(yv)-(yw)-(yx)-(yy)-(yz)-(za)-(zb)-(zc)-(zd)-(ze)-(zf)-(zg)-(zh)-(zi)-(zj)-(zk)-(zl)-(zm)-(zn)-(zo)-(zp)-(zq)-(zr)-(zs)-(zt)-(zu)-(zv)-(zw)-(zx)-(zy)-(zz)

the five (5)-year period of responsibility shall not recommence on areas where the operator has met the revegetation success standards of subsection (a)(2)(B) above.

if if-cropland-is-augmented-the-Department-shall-retain sufficient performance bond at the time of phase II performance bond release to ensure the cost of similarity augmenting all other lands if required is covered in the remaining bond amount.

Wetlands shall be considered augmented when significant alterations are made to the size or character of the watershed, pumping is used to maintain water levels, or neutralizing agents, chemical treatments or fertilizers are applied to the wetland area. Water level management using permanent water control structures is considered a normal husbandry practice.

3) Ground cover and production shall be considered equal to the approved success standard when they are not less than ninety (90) percent of the success standard. The sampling techniques for measuring success shall use a ninety (90) percent statistical confidence interval (i.e., one-sided t test with a 0.10 alpha error). Vegetative ground cover shall be measured using the technique set forth in 62 Ill. Adm. Code 1817.117(d). Standards for success shall be applied in accordance with the approved post-mining land use and, at a minimum, the following conditions:

A) The vegetative ground cover for areas previously disturbed by mining operations that were not reclaimed to the requirements of 62 Ill. Adm. Code 1800 through 1828, and that are reclaimed or otherwise redisturbed by surface coal mining operations, shall not be less than the greater of 70% or the percentage of ground cover existing before redisturbance, and shall be adequate to control erosion

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during the last year of the responsibility period;

B) For areas to be developed for industrial, commercial or residential use less than two (2) years after regrading is completed, the vegetative ground cover shall not be less than that required to control erosion and shall not be less than 70%;

C) For areas designated in the approved reclamation plan as cropland, except those cropland areas subject to 62 Ill. Adm. Code 1823.15, success of revegetation of cropland areas shall be determined in accordance with 62 Ill. Adm. Code 1816.116(a)(4). Crop production shall be considered successful if it is ninety (90) percent of that crop production required in 62 Ill. Adm. Code 1816.116(a)(4). Crop production shall be considered successful if it is ninety (90) percent of that crop production required in 62 Ill. Adm. Code 1816.116(a)(4) with ninety (90) percent statistical confidence (i.e., one-sided t test with a 0.10 alpha error) for a minimum of any two (2) crop years of a ten (10) year period prior to release of the performance bond, except the first year of the five (5) year responsibility period. During the extended five (5) year responsibility period, erosion from cropland must be minimized using equivalent or better management practices than surrounding unmined cropland. The five (5) year responsibility period shall begin after the last year of augmented seeding, fertilizing, or soil treatment and at the time of the planting of the crop(s) to be grown for the productivity showing or crops grown in rotation. Crop production for proof of productivity purposes shall be initiated within ten (10) years after completion of backfilling and final grading. All cropland shall be maintained using proper management practices as set forth in subsection (a)(2)(C) until the end of the responsibility period;

D) For areas to be developed for fish and wildlife habitat (including shelter belts), recreation, or forest products land uses, success of revegetation shall be determined on the basis of tree and shrub populations and ground cover. The tree and shrub population and ground cover shall meet the standards described in Section 1817.117; and

E) For areas designated as pasture and/or hayland or grazing land in the approved reclamation plan, except for erosion control devices and other structures (i.e., levees, ditches, waterways, impounding structure, etc.) productivity success of revegetation (tons of grasses and/or legumes per acre) shall be determined in accordance with 62 Ill. Adm. Code 1816.116(a)(4). Productivity shall be considered successful if it is ninety (90) percent of the productivity required in

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62 Ill. Adm. Code 1816.116(a)(4) with ninety (90) percent statistical confidence (i.e., one-sided t test with a 0.10 alpha error) for a minimum of any two (2) crop years of a ten (10) year period prior to release of the performance bond, except the first year of the five (5) year extended responsibility period. All pasture, hayland and grazing land shall be maintained using proper management practices as set forth in subsection (a)(2)(C) above until the end of the responsibility period. Production for proof of productivity purposes shall also be determined in accordance with Section 1817.117(a)(2). Production for proof of productivity purposes shall be initiated within ten (10) years after completion of backfilling and final grading. Ground cover shall be considered successful if it is ninety (90) percent with ninety (90) percent statistical confidence (i.e., one sided t test with a 0.10 alpha error) for a minimum of any two (2) years of a ten (10) year period prior to the release of the performance bond, except the first year of the five (5) year extended responsibility period. On cropland-capable land, the Department shall allow the permittee to substitute corn production for hay production. ~~this substitution shall be limited to one (1) attempt regardless of success. If determined to be a proper management practice in accordance with subsection (a)(2)(C) above, the Department shall allow the permittee to substitute one year of crop production of an allowable crop specified in 62 Ill. Adm. Code 1816.116(a)(4)(D) for one year of hay production on limited capability land; and~~

## F)

Small isolated areas which were disturbed from activities such as, but not limited to, signs, boreholes and power poles, shall be considered successfully revegetated if the operator can demonstrate that the soil disturbance was minor, the soil has been returned to its original capability and the area is supporting its approved post-mining land use at the end of the responsibility period.

- 4) In order to use the Agricultural Lands Productivity Formula, 62 Ill. Adm. Code 1816.Appendix A, to determine success of revegetation, the requirements of 62 Ill. Adm. Code 1816.116(a)(4) shall apply.

Wetland revegetation criteria shall be deemed successful when:

- A) The wetland vegetation criteria in the Corps of Engineers Wetlands Delineation Manual (Department of the Army Technical Report Y-87-1, January 1987, published by the Department of the Army, Waterways Experiment Station, Corps of Engineers, P.O. Box 631, Vicksburg, Mississippi 39180-0631) have been achieved following sampling procedures specified in that manual, which does not include any later amendments or editions and is available for inspection and

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copying at the Department's office located at 300 West Jefferson, Suite 300, P.O. Box 10137, Springfield, Illinois 62791-0137; and

- B) Areas designed to support vegetation in the approved plan shall have a minimum aerial coverage of 30 percent. The testing procedure in Section 1817.117(d)(1) through (3) shall be used to evaluate the extent of cover. Aerial cover shall be determined to be present if any approved wetland species is measured at the increment. The percentage of aerial cover shall be established for the area tested by taking the total number of measurements where aerial cover was determined to be present.

b) The person who conducts underground mining activities shall:

- 1) Conduct periodic measurements of vegetation, soils, and water prescribed or approved by the Department, to identify if remedial actions are necessary during the applicable period of liability specified in subsection (a); and
- 2) Permittees shall submit by February 15 of each year a report of reclamation activities conducted during the previous calendar year, which initiate or may alter the responsibility period or are specifically required by the Department to evaluate a normal husbandry practice, using forms provided by the Department. Examples of reclamation activities to be reported and/or evaluated include, but are not limited to, crops used in temporary and permanent seedings, grasses and legumes planted, trees and shrubs planted, soil amendments added, and type and location of augmentation activities. The forms shall be submitted with a copy of the approved post-mining land use and capability map depicting the location of such activities. The map shall be planned as a continuous map so the reclamation activities conducted each year may be added and indicated on the map by the dates the activities were conducted.

c) The permittee may request the use of a reference area in lieu of the Agricultural Lands Productivity Formula Target Yields set forth in 62 Ill. Adm. Code 1816.Appendix A to determine the success of revegetation for cropland and hayland. Other requirements and procedures of 62 Ill. Adm. Code 1816.116(a)(4) shall be applicable. Reference areas used to establish success standards under this Section must meet the following requirements:

- 1) If the fields to be represented contain in total eight hundred (800) acres or more, the reference area shall contain at least forty (40) acres. If the field(s) to be represented is smaller than eight hundred (800) acres, the reference area shall be the greater of five (5) percent of the field(s) to be represented or one (1) acre.

- 2) Each reference area shall be representative of the soils of the field(s) to be represented. The permittee shall provide adequate documentation of the soils and soil quality present in the



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abnormal growth, coloring, leaf drop or disease. At the time of bond release such trees and shrubs shall be alive, and shall have been in place for at least three (3) growing seasons, i.e. three (3) years. Until September 30, 2004, on lands eligible for re-mining, trees and shrubs need not have been in place for three (3) years; however, such trees and shrubs shall not be counted in determining success during the same calendar year in which they were planted.

- 2) Vegetative ground cover shall not be less than required to achieve the approved post-mining land use and shall be adequate to control erosion and shall not be less than 70% during the last year of the responsibility period.
- 3) Permanent roads, parking lots and similar impervious structures on the revegetated area shall not require the planting of trees and shrubs or herbaceous ground cover. Erosion control structures, including pond embankments, shall not require the planting of trees and shrubs.
- 4) For purposes of this Section, herbaceous species means: grasses, legumes and nonleguminous forbs; woody plants means: woody shrubs, trees and vines; and ground cover means: the area of ground covered by the combined aboveground parts of vegetation and the litter that is produced naturally on site.
- 5) For purposes of this Section, normal husbandry and conservation practices shall include pruning, disease, pest, vermin and herbaceous vegetation control including mowing, replanting and rill and gully repairs. The replanting of trees and shrubs in areas described in 62 Ill. Adm. Code 1817.116(a)(2)(C) shall be limited to 20% of the original approved planting rate during the first year of the responsibility period and 10% of the original approved planting rate during the second year of the responsibility period. The repair of rills and gullies shall be limited to those approved as a normal conservation practice under 62 Ill. Adm. Code 1817.116(a)(2)(C), (D) and (E).

- b) For areas where woody plants are used for fish and wildlife habitat (including shelter belts), or recreation land uses, the area shall have a minimum population of two hundred and fifty (250) trees or shrubs per acre. Planting arrangements such as hedgerows, border plantings, clump plantings, shelterbelts, and open herbaceous areas which increase diversity within wildlife areas may be approved by the Department on a case-by-case basis prior to planting such areas. ~~Where~~ Where woody plants are used for forest products land uses, the area shall have a minimum population of four hundred and fifty (450) trees or shrubs per acre.
- c) For areas planted to trees or shrubs including wildlife habitat (including shelter belts), recreation, and forest products land uses, the sampling procedure for measuring populations is described as follows:
  - 1) The permittee shall submit a scale drawing or aerial photograph

- 3) Each year the permittee shall provide a statement by an ARCPACS: A Federation of Certifying Boards in Agriculture, Biology, Earth and Environmental Sciences-certified professional or a certified crop advisor that the management of the reference area is equivalent to the field(s) to be represented. The permittee shall describe the proposed management of the reference area in a proposal.
- 4) Reference areas shall be located within six (6) miles of the field(s) to be represented.
- 5) Right-of-entry on the reference area for authorized representatives of the Department and the Illinois Department of Agriculture must be secured by written agreement or consent for the entire time period in which the reference area will be used.
- 6) Proposed reference areas must be submitted for Department approval no later than February 15 of the year in which they are proposed to be used.
- 7) The reference area shall have yields established by whole field harvest and shall be documented by the Illinois Department of Agriculture.
- 8) Yields determined for the reference area shall be those used for determination of success of revegetation unless:
  - A) The Department determines that management practices have not been equivalent during the course of the year; or
  - B) The Department determines that growing conditions have not been representative of the fields to be tested.

(Source: Amended at 19 Ill. Reg. \_\_\_\_\_, effective \_\_\_\_\_)

Section 1817.117 Revegetation: Tree and Shrub Vegetation

- a) For areas to be developed for fish and wildlife habitat (including shelter belts), recreation, or forest products land uses, success of vegetation shall be determined on the basis of tree and shrub population and vegetative ground cover. Such parameters are described as follows:

- 1) Trees and shrubs that will be used in determining the success of vegetation and the adequacy of plant arrangement shall have utility for the approved post-mining land use. Tree and/or shrub population shall be considered successful if it meets the population required in subsection (b) below with (90) percent statistical confidence (i.e., one-sided t test with a 0.10 alpha error) during the fifth year of the responsibility period or later in the responsibility period. On lands eligible for re-mining, the period of responsibility (until September 30, 2004) shall be two (2) full years. Trees and shrubs counted in determining such success shall be healthy, e.g. not demonstrating



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delineating the ~~areast~~ field(s) to be sampled and the total number of acres in each area field. A one (1) inch equals five hundred (500) feet (1:500) or larger scale shall be used. Once field boundaries are established in a submittal, the boundaries shall not be changed unless the Department approves a request in accordance with 62 Ill. Adm. Code 1774.13.

- 2) One of the following circular plot sizes shall be selected by the sample enumerator:

Plot Size/Acres	Radius/Feet
1/160	9.31
1/120	10.7
1/100	11.78
1/90	12.41
1/80	13.17
1/70	14.07
1/60	15.20
1/50	16.65
1/40	18.61
1/30	21.50
1/20	26.33
1/10	37.24
1/5	52.66
1/4	58.88

- 3) The number of plots needed to sample 2.5 percent of the area will be calculated employing the following formula:

Number of Plots equals 2.5 percent multiplied by Sample Area in acres divided by plot size.

- 4) Based on the number of plots needed to be sampled and plot size, locate transect lines an equal distance apart throughout the area to be sampled. Position individual plots an equal distance apart along transect lines. Determine the total length of all transect lines combined and then divide by the total number of plots needed to be sampled. When an individual plot is positioned within (60) sixty feet of the boundary of the area to be sampled, the location of the plot shall be moved perpendicular to the transect line until the plot is (60) sixty feet from the boundary of the area to be sampled or the greatest distance possible where (60) sixty feet cannot be achieved.

- 5) Sample each plot for compliance with subsections (a)(1) and (b) and record live trees and/or shrubs and species.

- 6) Calculate population levels as follows:

- A) Average number of live trees and/or shrubs per plot equals Total Number of live trees and/or shrubs divided by number of plots; and  
 B) Number of live trees and/or shrubs per acre equals Average number of live trees and/or shrubs per plot multiplied by plot size denominator.

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- 7) Representatives of the Department or the Illinois Department of Conservation shall conduct all sampling.

- d) Vegetative ground cover shall be measured by the following technique:

- 1) Twenty (20) random points shall be identified in the area to be tested.
- 2) A twenty (20) foot engineer's tape shall be extended directly south of each point. If the tape extends beyond the boundary of the area to be tested or extends into an area where herbaceous ground cover has been controlled with herbicides to minimize competition with woody plants, the tape shall be rotated in ninety (90) degree increments until the entire twenty (20) foot length is within the boundary of the area to be tested or area not treated with the herbicide.
- 3) A measurement shall be taken at each two tenths (.2) foot increment directly above or below the tape.
- 4) Ground cover shall be determined to be present if any vegetation identified in Section 1817.117(a)(4) is measured at the increment.
- 5) A percentage of ground cover shall be established for the area tested by taking the total number of measurements where ground cover was determined to be present.

(Source: Amended at 19 Ill. Reg. \_\_\_\_\_, effective \_\_\_\_\_)

## Section 1817.121 Subsidence Control

- a) The operator shall either adopt measures consistent with known technology which prevent subsidence from causing material damage to the extent technologically and economically feasible, maximize mine stability, and maintain the value and reasonably foreseeable use of surface lands; or adopt mining technology which provides for planned subsidence in a predictable and controlled manner. Nothing in this Part shall be construed to prohibit the standard method of room-and-pillar mining.

- b) The operator shall comply with all provisions of the subsidence control plan prepared pursuant to the requirements of 62 Ill. Adm. Code 1784.20, and as approved by the Department.

- c) The operator shall:

- 1) Correct any material damage resulting from subsidence caused to surface lands, to the extent technologically and economically feasible, by restoring the land to a condition capable of maintaining the value and reasonably foreseeable uses which it was capable of supporting before subsidence; and
- 2) Correct material damage resulting from subsidence caused to any structures or facilities by repairing the damage or compensating the owner of such structures or facilities in the full amount of the diminution in value resulting from the subsidence. Repair of

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damage includes rehabilitation, restoration, or replacement of damaged structures or facilities. Compensation may be accomplished by the purchase prior to mining of a noncancellable premium prepaid insurance policy payable to the surface owner in the full amount of the possible material damage. Nothing in subsection (c)(2) shall be deemed to grant or authorize an exercise of the power of condemnation or the right of eminent domain by any person engaged in underground mining activities.

3) Promptly replace any drinking, domestic, or residential water supply from a well or spring in existence prior to the application for a surface coal mining and reclamation operations permit, which has been affected by contamination, diminution, or interruption resulting from underground coal mining operations.

d) Underground mining activities shall not be conducted beneath or adjacent to (1) public buildings and facilities; (2) churches, schools, and hospitals; (3) impoundments with a storage capacity of 20 acre-feet or more or bodies of water with a volume of 20 acre-feet or more, unless the subsidence control plan demonstrates that subsidence will not cause material damage to, or reduce the reasonably foreseeable use of such features or facilities. If the Department determines that it is necessary in order to minimize the potential for material damage to the features or facilities described above or to any aquifer or body of water that serves as a significant water source for any public water supply system, it may limit the percentage of coal extracted under or adjacent thereto.

e) If subsidence causes material damage to any of the features or facilities covered by subsection (d), the Department may suspend mining under or adjacent to such features or facilities until the subsidence control plan is modified to ensure prevention of further material damage to such features or facilities.

f) The Department shall suspend underground mining activities under urbanized areas, cities, towns, and communities, and adjacent to industrial or commercial buildings, major impoundments, or perennial streams, if imminent danger is found to inhabitants of the urbanized areas, cities, towns, or communities.

g) All underground operators shall on or before April 1, of each year submit three (3) mine maps of underground workings to the Department. The mine maps shall indicate the actual extent of mining for the calendar year prior to the submittal date. Mine maps and descriptions shall include the size, configuration, and approximate location of pillars and entries, extraction ratios, measures taken to prevent or minimize subsidence and related damage and areas of full extraction. The mine maps shall also project the anticipated extent of mining for at least the calendar year at the time of the submittal. Mine maps shall also include, at a minimum, all features identified in subsection (d) of this Section, public roads and all Township and Range designations and section corners. The map shall be sealed by an engineer registered in the State of Illinois. The maps shall be

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planned as a continuous map so that areas mined each year may be added and indicated by the dates mining occurred. Maps shall include the name of mine and the operator; address of the operator; scale, including both written and bar scales; and by whom the map was drawn. Maps submitted shall be at a scale approved by the Department as necessary to provide sufficient detail for the information required by this subsection. Upon request of the operator, information may be held confidential, in accordance with the requirements of 62 Ill. Adm. Code 1773.13(d).

(Source: Amended at 19 Ill. Reg. \_\_\_\_\_, effective \_\_\_\_\_)

## Section 1817.131 Cessation of Operations: Temporary

a) Each person who conducts underground mining activities shall effectively support and maintain all surface access openings to underground operations, and secure surface facilities in areas in which there are no current operations, but in which operations are to be resumed under an approved permit. Temporary abandonment shall not relieve a person or his or her obligation to comply with any provisions of the approved permit.

b) Before temporary cessation of mining and reclamation operations for a period of thirty (30) days or more, or as soon as it is known that a temporary cessation will extend beyond thirty (30) days, each person who conducts underground mining activities shall submit to the Department a notice of intention to cease or abandon operations. This notice shall include a statement of the exact number of surface acres and the horizontal and vertical extent of subsurface strata which have been affected in the permit area prior to cessation or abandonment, the extent and kind of reclamation of surface area which will have been accomplished, and identification of the backfilling, regrading, revegetation, environmental monitoring, underground opening closures, and water treatment activities that will continue during the temporary cessation.

(Source: Amended at 19 Ill. Reg. \_\_\_\_\_, effective \_\_\_\_\_)

## Section 1817.133 Post - Mining Land Capability

a) All disturbed areas shall be restored in a timely manner to a condition capable of supporting:

- 1) The uses which they were capable of supporting prior to any mining; or
- 2) Higher or better uses of which there is a reasonable likelihood of restoration: Provided that, no plan of restoration shall be approved unless use of the area as proposed does not:

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- A) Present any actual or probable hazard to public health or safety;
- B) Pose any actual threat of diminution or pollution pursuant to Section 1817.41; or
- C) That the proposed land use following restoration is not bound found to be impracticable or unreasonable by the Department or determined by the Department to be inconsistent with land use policies and plans which are applicable, or to involve unreasonable delay in implementation. No restoration plan shall be approved if the proposed land use following reclamation is violative of other applicable law.

- b) The premining capability of land to which the post-mining land capability is compared shall be the capabilities that the land would have supported if it had not been previously mined and had been properly managed. The post-mining land capability for land that has been previously mined and not reclaimed shall be judged on the basis of the land capability that existed prior to any mining; provided that, if the land cannot be reclaimed to the land capability that existed prior to any mining because of the previously mined condition, the post-mining land capability shall be judged on the basis of the highest and the best capability that can be achieved which is compatible with surrounding areas and does not require the disturbance of areas previously unaffected by mining. Quantification of land capability is to be done on the basis of acreage summaries for each land capability category, as defined in 62 Ill. Adm. Code 1701.5. The total acreage for each land capability category should approximate the corresponding premining acreage. Changes in total acreage from one land capability class to another shall require approval in accordance with Section 1817.133 (a)(2).

- c) In determining the capability of affected land, the Department shall use as a guideline the handbook entitled: Land Capability Classification, Agriculture Handbook No. 210, published by the Soil Conservation Service of the U.S. Department of Agriculture. A copy of this handbook shall be on file with the Department and the Secretary of State. Interested persons may present views respecting the capability of affected lands in the due course of the Department's review of the permit application.

(Source: Amended at 19 Ill. Reg. \_\_\_\_\_, effective \_\_\_\_\_)

## Section 1817.151 Primary roads

Primary roads shall meet the requirements of Section 1817.150 and the additional requirements of this Section.

- a) Certification. The construction or reconstruction of primary roads shall be certified in a report submitted to the Department by a

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qualified registered professional engineer within thirty (30) days after completion of construction. For purposes of this Section, intended purpose as determined by the Department. The professional engineer shall be experienced in the design and construction of roads, as evidenced by the placement of a registered professional engineer's seal on the report. The report shall indicate that the primary road has been constructed or reconstructed as designed and in accordance with the approved plan.

- b) Safety Factor. Each primary road embankment shall be shown to have a minimum static factor of safety of 1.3, or shall be designed in compliance with the following design standards:

- 1) The embankment foundation area shall be cleared of all organic material and the entire foundation surface shall be scarified;
- 2) If the natural slope of the foundation as measured at right angles to the roadway center line is steeper than 8H:1V, the embankment shall be benched into the existing slope beginning at the embankment toe and then filled with compacted level lifts;
- 3) The embankment fill material shall be free of sod, large roots, and other large vegetative matter;
- 4) The fill shall be brought up in horizontal layers of such thickness as required to facilitate compaction in accordance with prudent construction standards;
- 5) The moisture content of the fill material shall be sufficient to secure proper compaction;
- 6) The side slopes of the embankment shall be no steeper than 2H:1V;
- 7) Maximum fill height shall be twenty-five (25) feet as measured from natural ground at the downstream toe to the top of the embankment;
- 8) Embankments shall have a minimum top width of  $(H + 35)/5$ , where "H" is the embankment height as measured from natural ground at the downstream toe to the top of the embankment, and shall be adequate for the intended use.

- c) Location.

- 1) To minimize erosion, a primary road shall be located, insofar as is practicable, on the most stable available surface.
- 2) Fords of perennial or intermittent streams by primary roads are prohibited unless they are specifically approved by the Department as temporary routes during periods of road construction.

- d) Drainage control. In accordance with the approved plan:

- 1) Each primary road shall be constructed or reconstructed, and maintained to have adequate drainage control, using structures such as, but not limited to bridges, ditches, cross-drains and ditch relief drains. The drainage control system shall be designed to safely pass the peak runoff from a 10-year, 6-hour precipitation event, or greater event as specified by the Department as necessary to ensure proper drainage control design



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- in accordance with prudent engineering practices:-1
- 2) Drainage pipes and culverts shall be installed as designed, and maintained in a free and operating condition and to prevent or control erosion at inlets and outlets;
  - 3) Drainage ditches shall be constructed and maintained to prevent uncontrolled drainage over the road surface and embankment;
  - 4) Culverts shall be installed and maintained to sustain the vertical soil pressure, the passive resistance of the foundation, and the weight of vehicles using the road;
  - 5) Natural stream channels shall not be altered or relocated without the prior approval of the Department in accordance with applicable sections of 62 Ill. Adm. Code 1817.41 through 1817.43 and 1817.57; and
  - 6) Except as provided in subsection(c)(2) above, structures for perennial or intermittent stream channel crossings shall be made using bridges, culverts, low-water crossings, or other structures designed, constructed, and maintained using current, prudent engineering practices. The Department shall ensure that low-water crossings are designed, constructed and maintained to prevent erosion of the structure or streambed and additional contributions of suspended solids to streamflow.
- e) Surfacing. Primary roads shall be surfaced with material approved by the Department as being sufficiently durable for the anticipated volume of traffic and the weight and speed of vehicles using the road.
- (Source: Amended at 19 Ill. Reg. \_\_\_\_\_, effective \_\_\_\_\_)

**Section 1817.182 Minor Underground Mine Facilities Not at or Adjacent to the Processing or Preparation Facility or Area**

- a) This Section sets forth performance standards for minor underground mine facilities not at or adjacent to the processing or preparation facility or area, such as air shafts, fan and ventilation buildings, small support buildings or sheds, access power holes, other small miscellaneous structures, and associated roads. These performance standards and other requirements are the minimum standards which shall be required of such operations, however, the Department will require application of applicable performance standards of 62 Ill. Adm. Code 1810 through 1828 and this Part ~~18~~ if such minor facilities significantly impact land, air or water resources.
- b) Habitats of unique value for fish, wildlife, and other related environmental values shall not be disturbed.
- c) The person who utilizes such facilities shall, to the extent practicable, measure important environmental characteristics of the area to be affected during the operations, to minimize environmental damage to the area and to provide supportive information for any permit application that person may submit under 62 Ill. Adm. Code

- 1785.23.
- d) Roads.
- 1) Vehicular travel on other than established, graded and surfaced roads shall be limited by the person who conducts coal mining activities to that absolutely necessary to conduct the activities. Travel shall be confined to graded and surfaced roads during periods when excessive damage to vegetation or rutting of the land surface could result.
  - 2) Any new roads associated with the facilities shall comply with Sections 1817.150 and 1817.151 of this Part.
  - 3) Existing roads may be used in accordance with the following:
    - A) All applicable Federal, State, and local requirements shall be met;
    - B) If the road is significantly altered for the operation, including, but not limited to, change of grade, widening, or change of route, or if use of the road contributes additional suspended solids to streamflow or runoff, then paragraph (h) of this Section shall apply to all areas of the road which are altered or which result in such contributions; and
    - C) If the road is significantly altered for the underground mining activities and will remain as a permanent road after activities are completed, the permittee shall ensure that the requirements of Sections 1817.150 and 1817.151 of this Part are met for the design, construction, alteration, and maintenance of the road.
  - 4) Promptly after the activities are completed, ~~existing~~ restore:
    - A) To a condition equal to or better than their pre-disturbance condition; or
    - B) To the condition required for permanent roads under Sections 1817.150 and 1817.151 of this Part, as appropriate.
  - e) If excavation, artificial flat areas, or embankments are created during establishment of minor facilities, these areas shall be returned to the approximate original contour promptly after such features are no longer needed for the underground mining activity.
  - f) If topsoil shall be removed, stored, and redistributed on disturbed areas as necessary to assure successful revegetation or as required by the Department.
  - g) Revegetation of areas disturbed by the establishment or use of minor facilities shall be performed by the permittee, or his or her agent. All revegetation shall be in compliance with the plan approved by the Department and carried out in a manner that encourages prompt vegetative cover comparable with approved post disturbance land uses.
  - h) With the exception of small and temporary diversions of overland flow of water around new roads, drill pads, and support facilities, no ephemeral, intermittent or perennial stream shall be diverted during activities in connection with minor underground mine facilities. Overland flow of water shall be diverted in a manner that:

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- 1) Prevents erosion;
- 2) To the extent possible using the best technology currently available, prevents additional contribution of suspended solids to streamflow or runoff outside the disturbed area; and
- 3) Complies with all other applicable State or Federal requirements.
- i) Each borehole, well, or other exposed underground opening created must meet the requirements of Sections 1817.13, 1817.14, and 1817.15.
- j) All facilities and equipment shall be removed from the disturbed area promptly when they are no longer needed, except for those facilities and equipment that the Department determines may remain to:
- 1) Provide additional environmental quality data;
  - 2) Reduce or control the on and off-site effects of the activities;
- or
- 3) Facilitate future surface mining and reclamation operations by the person conducting the activities, under an approved permit.
- k) Such minor facilities shall be utilized in a manner which minimizes disturbance of the prevailing hydrologic balance, and shall include sediment control measures such as those listed in Section 1817.45 or siltation structures which comply with Section 1817.46. The Department may specify additional measures which shall be adopted by the permittee.
- l) Toxic- or acid-forming materials shall be handled and disposed of in accordance with Section 1817.102. If specified by the Department, additional measures shall be adopted by the permittee.

(Source: Amended at 19 Ill. Reg. \_\_\_\_\_, effective \_\_\_\_\_)

## Section 1817.190 Affected Acreage Map

- a) On or before September 1 of each year, every permit holder shall submit to the Department ~~and to the county clerk~~ reports and maps of affected areas.
- b) Two (2) copies, plus one (1) additional copy for each county in which the permit is located, of the reports and ~~the forms shall be executed and duplicate maps shall be attached~~ submitted showing the areas affected during the fiscal year just ended. One of the copies submitted shall contain the original signature of a company official. The Department shall require the map to be executed by an engineer registered in accordance with the ~~Illinois Professional Engineering Act (1903--Stat. 1903--Ch. 117--Par. 514--et--seq.)~~ Professional Engineering Practice Act of 1989 [225 ILCS 325] or a land surveyor registered in accordance with ~~the Illinois Land Surveyors Act (1911--Rev. Stat. 1903--Ch. 117--Par. 320--et--seq.)~~ the Illinois Professional Land Surveyor Act of 1989 [225 ILCS 330]. The Department shall then forward one copy to the county clerk(s).
- c) The map shall be planned as a continuous map so that the area affected each year may be added and indicated on the map by the dates it was

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affected. Report as required by Section 1817.190 shall be submitted to the Department. Map scales shall be in accordance with 62 Ill. Adm. Code 1771.23(e)(1).

- d) All maps shall show sections, township, range and county lines coming within the scope of the map; access to the area from the nearest public road and all weather roads within the minded area; and a title containing the name of the operator, the address, scale of the map, by whom the map was drawn, name of the surveyor or engineer.

(Source: Amended at 19 Ill. Reg. \_\_\_\_\_, effective \_\_\_\_\_)

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- 1) **Heading of the Part:** Permanent Program Performance Standards - Surface Mining Activities

- 2) **Code Citation:** 62 Ill. Adm. Code 1816

3) **Section Number:** Proposed Action:

1816.13 Amend

1816.15 Amend

1816.22 Amend

1816.41 Amend

1816.46 Amend

1816.79 Amend

1816.97 Amend

1816.116 Amend

1816.117 Amend

1816.133 Amend

1816.151 Amend

1816.190 Amend

1816.Appendix A

- 4) **Statutory Authority:** Implementing and authorized by the Surface Coal Mining Land Conservation and Reclamation Act (Ill. Rev. Stat. 1991, ch. 96 1/2, pars. 7901.01 et seq.) (225 ILCS 720).

- 5) A complete description of the subjects and issues involved: Part 1816 sets forth performance standards for surface mining operations. Section 1816.13 sets forth general requirements for casing and sealing drilled holes, and is proposed to be amended by requiring that exposed underground openings be backfilled. Similarly, Section 1816.15 contains requirements for permanent casing and sealing of drilled holes. This Section is proposed to be amended by requiring that exposed underground openings be backfilled. Section 1816.22 contains topsoil and subsoil handling requirements. The Department proposes to eliminate the acreage restriction on topsoil substitutes in subsection (b), as counterpart federal regulations contain no such restriction. The 50 acre limit is arbitrary and no longer deemed necessary. Evaluations must be made on technical merits on a case-by-case basis. The size of a given area has nothing to do with whether the proposed substitute is equal or better.

Section 1816.41 sets forth requirements for protecting the hydrologic balance. Subsections (c)(2) and (e)(2) are proposed to be amended in order to clarify when the required surface and groundwater monitoring reports are to be submitted to the Department. The Department proposes to delete the reference to concurrent submittal of NPDES reports to the Illinois Environmental Protection Agency because the Office of Surface Mining has interpreted this to mean that the Department is responsible for checking IEPA's files to determine if reports have been submitted. This interpretation places an unnecessary administrative burden on the

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- Department. Federal regulations only require that reports be submitted to the regulatory authority.

Section 1816.46 sets forth requirements for siltation structures. All disturbed area drainage is currently required to pass through a siltation structure, which is defined as a sedimentation pond or other treatment facility. Both the Surface Mining Control and Reclamation Act of 1977 (SMCRA), 30 U.S.C. 1201 et seq., and the State Act, 225 ILCS 720, allow for the use of sediment control measures other than sediment ponds if approved by the Department as the best technology currently available (BTCA) to prevent additional contributions of suspended solids to stream flow. Requiring ponds in all cases that do not qualify for small area exemptions often results in considerably more disturbance being done to the area during construction of the pond than would result from implementing other sediment control measures. The construction of ponds is not always the BTCA.

For these reasons Section 1816.46 is proposed to be amended. Subsection (e) will be amended to provide for a second exemption from passing all drainage from disturbed areas through a siltation structure. The exemption provided by new subsection (e)(2)(A) will allow the use of the sediment control measures described in Section 1816.45(b), in lieu of siltation structures, given a demonstration that these measures are the BTCA. New subsection (e)(2)(B) is the current subsection (e)(2) exemption from the use of both a siltation structure and alternate sediment control measures. The proposed amendments will result in less impact to the permit area while providing the same level of protection for the hydrologic balance and ensure that the BTCA, which may be sediment ponds or may be alternate sediment control measures, will be used in all cases. Regulatory citations are also proposed to be updated.

Section 1816.79, which provides requirements for the protection of underground mining, is proposed to be reorganized and amended in order to mirror language in counterpart federal regulations. The current regulations could be interpreted to violate the "no more stringent than" clause of Section 1.02(c) of the State Act (225 ILCS 720/1.02(c)).

Section 1816.97 sets forth provisions for the protection of fish, wildlife and related environmental values. Subsection (b) is proposed to be amended in order to make the regulation consistent with its federal counterpart. The language proposed to be deleted has caused confusion and may be interpreted as being more stringent than federal requirements, contrary to the "no more stringent than" clause of Section 1.02(c) of the State Act (225 ILCS 720/1.02(c)).

Section 1816.116 sets forth revegetation success standards. Section 3.5 of the State Act was recently amended to change the responsibility period from five years to two years for areas eligible for reining [225 ILCS



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720/3.15]. This amendment reflected the 1992 amendment to Section 515(b)(20)(B) of SMCRA. The federal amendment provides for the two-year responsibility period authority to expire on September 30, 2004. The proposed amendment to subsection (a)(2)(B) reflects these legislative changes. A typographical error is being corrected in subsection (a)(2)(C).

On July 1, 1991, the Department's Surface Mining Advisory Council issued a resolution to encourage wetland reclamation as a productive and valuable post-mining land use. As part of that resolution, the Advisory Council called on the Department's Land Reclamation Division to adopt wetland reclamation standards based on ecologically sound and technologically feasible wetland establishment principles and practices. The Governor's Water Resources and Land Use Priorities Task Force, in its April 1993 report, recommended that "the state should develop ecologically sound and technologically feasible wetland establishment principles and practices." Section 1816.116(a)(2)(F) is proposed to be deleted, with the exception of subsection (ii), which has been revised and relocated to Section 1816.116(a)(4)(D). This practice was approved by OSM at 51 Fed. Reg. 44455-44456 (December 10, 1986). This Section has been replaced with new language regarding wetlands augmentation. Water level management is a standard routine technique for wetlands management and as such is not considered augmentative. Many, if not most government agencies which manage wetlands, including the State of Illinois and the U.S. Department of the Interior, use this widely accepted technique. The technique is used to create, through management, ideal aerobic/anaerobic conditions for the germination of hydrophytic plants. This technique is supported by the scientific literature. More detailed descriptions can be found in the following literature:

Weller, Milton W. 1989. Waterfowl management techniques for wetland enhancement, restoration and creation useful in mitigation procedures. pp. 105-116 *In* Wetland creation and restoration: the status of the science, Vol. II. U.S. Environmental Protection Agency. EPA 600/3-89/038b.

Atlantic Flyway Council. 1972. Techniques Handbook of the Waterfowl Habitat Development and Management Committee, 2nd ed. Atlantic Flyway Council, Boston, Massachusetts.

Amendments are proposed for Section 1825.14 to provide for compaction alleviation and sufficient bonds to implement compaction alleviation. In addition, Section 1816.116(a)(5) is proposed to be added in response to the Advisory Council's resolution and the Governor's Task Force recommendations.

Section 1816.116(a)(3)(E) is proposed to be amended in response to the Office of Surface Mining's (OSM) directive published at 58 Fed. Reg.

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46850 (September 3, 1993). The proposed amendments clarify that non-previously disturbed areas are also subject to a 90% ground cover standard for a minimum of two years in the responsibility period. The proposed amendments would also remove the one year attempt limit for substituting corn productivity for one year of hay productivity. Due to the number of variables which may affect corn production, it is felt that this part of the regulation is unnecessarily restrictive. The revegetation regulations are formulated to allow a reasonable period of time to document post-mining productivity. Factors such as lack of rainfall or other uncontrollable crop damaging occurrences may prevent the permittee from achieving targets in any given year. The regulations need to take this into account and should allow additional trials that fall within the "two year/ten year" criteria allowed under this subsection. Subsection (a)(3)(E) is also being revised to allow one year substitution of crops in lieu of hay on limited capability land, provided the Department determines that the practice is proper management. Such practice was approved by OSM in 56 Fed. Reg. 64989 (December 13, 1991). As a normal practice the Department has required limited capability land to be returned to a land use other than cropland. The Department has also experienced several situations where all prime and high capability land acreage obligations have been met, yet the operator has reclaimed limited capability land to a higher quality than required. In these cases a crop can be managed and should be allowed.

Section 1816.116(a)(3)(F) is proposed to be added, which addresses the revegetation requirements within the responsibility period for small isolated areas which have been subject to minor disturbances and cannot be tested for productivity and ground cover in a typical or effective manner. The regulation is not intended to exclude these areas from the five year responsibility period. These areas will be required to be adequately vegetated, producing hay or crops and controlling erosion as proper management dictates. Compaction alleviation will be required as a prerequisite where the Department anticipates soil compaction has occurred. The concept of restoration of soil productivity through compaction alleviation on these types of disturbances is supported by OSM's preamble justification for leaving subsoil in place on prime farmland. See 59 Fed. Reg. 40837 (October 18, 1994). Additional justification for narrow exceptions to similar rules is found in OSM's preamble discussion of topsoil removal exceptions. See 48 Fed. Reg. 22094 (May 16, 1983). In this case OSM allows state discretion for varying the absolute requirement of topsoil removal when certain minor disturbances occur, even though a "minimal" amount of topsoil will be lost. These situations are analogous to minor disturbed areas where reasonable efforts will be made to restore capabilities and provide erosion control, but the full tests, i.e., yields, have not been determined. This Section is particularly applicable to underground mines which have small, isolated areas surrounded by unaffected land. The testing and harvesting of yields on these areas and developing reference targets poses an unreasonable

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administrative problem as there is no other representative area being tested.

Section 1816.116(a)(4)(A)(ii) is proposed to be amended to allow fields to include small isolated areas with the larger fields being tested under the Agricultural Lands Productivity Formula (ALPF). A common occurrence at surface mines is a fringe of surface disturbance only area adjacent to the mined areas. Once topsoil is replaced over the in-place subsoil, the result is a patchwork of soil capability classes and land uses, due to the pre-mining soils and land uses. Another related occurrence exists on small reclaimed areas in mined areas which are too small to be practically tested under the ALPF. The proposed revision will allow the Department to include these small areas with larger fields if the larger areas are representative of these small areas. The testing and harvesting of these small individual areas poses an unreasonable administrative problem. The proposed procedure is statistically valid under the rationale used for excluding other features, such as erosion control systems, from actual sampling. These small areas will be required to maintain a successful ground cover under the responsibility period. Compaction alleviation will be required as a prerequisite where the Department anticipates that soil compaction will occur.

Section 1816.116(c) is proposed to be added to provide for the use of reference areas to establish target yields in lieu of ALPF. The Department has attempted to establish a procedure for evaluation and use of the proposed reference area to assure that the area is representative of the fields to be tested. This will include identification of soils and soil quality and provisions for equivalent management practices on both the tested and reference areas. The proposal also provides for the subsequent disuse of the reference area in the situation of unequal management or abnormal growing conditions. One example of abnormal growing conditions would be a hail storm reducing yields on the reference area but not the fields tested. If the reference area is chosen the permittee is obligated to use these target yields for productivity success. Targets calculated under the Agricultural Lands Productivity Formula will only be used if subsection (c)(8) is applicable. The Department will work in consultation with the Illinois Department of Agriculture in the evaluation of reference areas.

Section 1816-Appendix A contains the Agricultural Lands Productivity Formula (ALPF). Several amendments are proposed for this Section, under Permit Specifics Yield Standards, in order to fine tune the ALPF to establish more accurate and equitable targets. Language is proposed to be added to clarify that ALPF target calculation procedures are applicable to limited capability lands and that targets are to be based on the soils which are disturbed within the permit area.

A provision is proposed to be added to establish yield targets by pit

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instead of by permit in situations where multiple permits on a single pit occur or when multiple pits occur under a single permit. When the first situation occurs the soil handling techniques are the same and the soil is physically moved across permit lines due to the nature of the mining. Several of these situations have accomplished the same result by re-permitting the multiple permits under one larger permit. When the second situation occurs, there may be as many as a dozen geographically distinct pits as much as several miles apart and even involving more than one county. The proposed amendments establish target yields more reflective of the soils which are physically handled within the pit and are more protective of the individual landowners in that pit.

Another proposed provision would link the yearly target adjustment, which is calculated on a county-wide basis, to the county with the largest acreage. Several permits contain minor acreage in a second county, with one permit containing minor acreage in two additional counties. Amendments are also proposed which would allow the targets to be recalculated based on the soils actually disturbed at the end of mining. Several operations have stopped mining prematurely, leaving a large portion of the permit unaffected, which may significantly affect target yields. Significant revisions are commonly done to fine tune permits at the end of mining and provide accurate information on soils which have actually been disturbed. The proposed amendments provide a mechanism to revise the target to be fair and equitable for the operator and the public.

Another proposal would allow the consolidation of soils from high capability land and prime farmland under certain conditions. Under prime farmland restoration plans an operator must separate prime farmland soils from non-prime farmland soils unless he can demonstrate that mixing the two will not impact the ability to meet required yields. High capability soils are typically grandfathered prime farmland, soils that have received a negative determination due to historic use or the same soil type with a slope that excludes it from the prime farmland criteria. These soils are typically interspersed with prime farmland and managed as one field before mining. Illinois, with its high capability regulations, provides a high level of protection for the restoration of these soils. In many instances, these soils are reconstructed in the same manner as the prime farmland and will have the same capability. The alternative yield targets are more representative of pre-mining yields from the surrounding unmined farmland under equivalent management. Under this alternative the reclaimed prime farmland fields are still required to meet the 100% productivity standard and the high capability land is required to meet 90% of that target.

Section 1816.117 sets forth requirements for tree and shrub vegetation. Subsection (a)(1) is proposed to be amended to reflect the amendments to Section 3.15 of the State Act, 225 ILCS 720/3.15, which are further

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discussed above.

Section 1816.117(a)(3) is proposed to be amended to clarify that erosion control structures, including pond embankments within an approved land use of fish and wildlife, forest or recreation, are not required to be planted to trees and shrubs. Tree and shrub growth on embankments is detrimental to their maintenance. (See IDOT's "Guidelines and Forms for Inspection of Illinois Dams", 1987.) The ground cover requirements of subsection (a)(2) are still applicable.

Section 1816.117(b) is proposed to be amended to provide for approval of fish and wildlife habitat area planting designs that are not necessarily uniform throughout the area.

Section 1816.117(c)(1) is proposed to be revised to establish a field system for trees and shrubs similar to that already adopted for agricultural areas.

A typographical error is being corrected in Section 1816.133(a)(2)(C).

Section 1816.151 sets forth requirements for primary roads. The rules do not currently define when road construction is completed or when certification is required, nor do the rules currently specify a time limit for submitting the required engineering certification. For clarifying purposes, the proposed amendments to subsection (a) define completion of construction and specify that the certification must be submitted within 30 days after completion.

Section 1816.190 sets forth requirements for affected acreage maps. Permittees are currently required to file annual affected acres reports with the county clerk. The permittee is required to submit a proof of filing form with the Department, and often this form is completed incorrectly or a copy is submitted instead of the original, resulting in administrative problems for the Department and duplicate filings with the county clerks. The Department currently forwards various submittals to the county clerks on a weekly basis. It would not be an additional burden to include the affected acres reports in the materials forwarded to the county clerks. Subsections (a) and (b) are therefore proposed to be amended to require the permittee to submit an additional copy of the affected acres report to the Department, which the Department will then forward to the county clerk. In addition, statutory citations in subsection (b) are being updated.

- 6) Will this proposed rule replace an emergency rule currently in effect? No
- 7) Does this rulemaking contain an automatic repeal date? No
- 8) Do these proposed amendments contain incorporations by reference? This

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rulemaking includes an incorporation by reference, pursuant to Section 5-75 of the IAPA [5 ICS 100/5-75].

- 9) Are there any other amendments pending on this Part? No
- 10) Statement of Statewide Policy Objectives: The proposed amendments will have no impact upon local units of government.
- 11) Time, place, and manner in which interested persons may comment on this proposed rulemaking: Written comments may be submitted within 45 days of the publication of this notice to:

Karen Jacobs, Legal Counsel  
Illinois Department of Mines and Minerals  
300 West Jefferson, Suite 300  
Springfield, IL 62791-0137  
(217) 782-6791

Commentors must provide a name and address. Comments must be directed to a specific subsection and must be made on a separate sheet of 8 1/2 x 11 inch paper.

Comments may include data, views, arguments or any documents relevant to the proposals noted above in the Description of Subjects and Issues involved. All comments are due at the above address no later than 45 days after the publication of this notice. Comments received thereafter will not be considered in this rulemaking.

- 12) Initial Regulatory Flexibility Analysis:

A) Types of small businesses affected: This rulemaking does not affect small businesses.

B) Reporting, bookkeeping or other procedures required for compliance: None

C) Types of professional skills necessary for compliance: None

- 13) State reason(s) for the rulemaking if it was not included in either of the two (2) most recent regulatory agendas: This rulemaking was included in the regulatory agenda published at 19 Ill. Reg. 659-684 (January 20, 1995).

The full text of the Proposed Amendments begins on the next page.





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APPENDIX A	Agricultural Lands Productivity Formula
EXHIBIT A	County Crop Yields by Soil Mapping Unit
TABLE A	Subsoil Adjustments
TABLE B	Soil Variance Codes
TABLE C	County Numbering System
TABLE D	Sample Points Per Crop Acres
TABLE E	Soil Master Files (Repealed)
TABLE F	County Cropped Acreage File (Repealed)

AUTHORITY: Implementing and authorized by the Surface Coal Mining Land Conservation and Reclamation Act (Ill. Rev. Stat. 1991, ch. 96 1/2, pars. 7901.01 et seq.) [225 ILCS 720].

SOURCE: Adopted at 4 Ill. Reg. 37, p. 1, effective June 1, 1982; amended at 6 Ill. Reg. 1, effective June 1, 1982; amended at 6 Ill. Reg. 15024, effective December 30, 1982; codified at 8 Ill. Reg. 8224; amended at 9 Ill. Reg. 13310, effective October 10, 1985; amended at 10 Ill. Reg. 8985, effective July 1, 1986; amended at 11 Ill. Reg. 8131, effective July 1, 1987; amended at 14 Ill. Reg. 11830, effective January 1, 1991; amended at 15 Ill. Reg. 17166, effective January 1, 1992; amended at 17 Ill. Reg. 1001, effective July 1, 1993; amended at 19 Ill. Reg. \_\_\_\_\_, effective \_\_\_\_\_.

## Section 1816.13 Casing and Sealing of Drilled Holes: General Requirements

Each exploration hole, other drill or borehole, well, or other exposed underground opening shall be backfilled ~~cased, sealed, or otherwise managed~~, as approved by the Illinois Department of Mines and Minerals (Department), to prevent acid or other toxic drainage from entering ground or surface waters, to minimize disturbance to the prevailing hydrologic balance, and to ensure the safety of people, livestock, fish and wildlife, and machinery in the permit and adjacent area. If these openings are uncovered or exposed by surface mining activities within the permit area they shall be permanently ~~backfilled closed~~, unless approved for water monitoring ~~or otherwise managed in a manner approved by the Department~~. Use of a drilled hole or borehole or monitoring well as a water well must meet the provisions of Section 1816.41. This Section does not apply to holes solely drilled and used for blasting.

(Source: Amended at 19 Ill. Reg. \_\_\_\_\_, effective \_\_\_\_\_)

## Section 1816.15 Casing and Sealing of Drilled Holes: Permanent

When no longer needed for monitoring or other use approved by the Department upon a finding of no adverse environmental or health and safety effect, or unless approved for transfer as a water well under Section 1816.41, each exploration hole, other drilled hole or borehole, well, and other exposed underground opening shall be backfilled ~~capped, sealed, backfilled, or otherwise properly managed~~, as required by the Department, under Section

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1816.13 and consistent with 30 CFR 75.1711. Permanent closure measures shall be designed to prevent access to the mine workings by people, livestock, fish and wildlife, and machinery, and to keep acid or other toxic drainage from entering ground or surface waters.

(Source: Amended at 19 Ill. Reg. \_\_\_\_\_, effective \_\_\_\_\_)

## Section 1816.22 Topsoil and Subsoil

## a) Removal.

1) All topsoil shall be removed as a separate layer from the area to be disturbed, and segregated. Where topsoil is of insufficient quantity or poor quality for sustaining vegetation, the materials approved by the Department in accordance with subsection (b) shall be removed as a separate layer from the area to be disturbed, and segregated.

2) If topsoil is less than six (6) inches thick and no substitutes or supplements are approved in accordance with subsection (b), the operator shall remove a six (6) inch layer that includes the A horizon and the unconsolidated materials immediately below or the A horizon and all unconsolidated materials if the total available is less than six (6) inches and treat the mixture as topsoil.

3) The Department shall not require the removal of topsoil for minor disturbances which:

A) Occur at the site of small structures, such as power poles, signs, fence lines or markers; or

B) Will not destroy the existing vegetation, will not cause erosion and will not degrade the quality or limit the future use of the soil.

4) All material to be removed under this Section shall be removed after the vegetative cover that would interfere with its salvage is cleared from the area to be disturbed, but before any drilling, blasting, mining or other surface disturbance takes place.

b) Substitutes and supplements.

4) Selected overburden materials may be substituted for, or used as a supplement to topsoil if the operator demonstrates to the Department that the resulting soil medium is equal to, or more suitable for sustaining vegetation than, the existing topsoil, and the resulting soil medium is the best available in the permit area to support revegetation. The demonstration shall be based upon the information requirements of 62 Ill. Adm. Code 1780.18(b)(4).

4) A plan for topsoil substitutes or supplements will be considered a significant revision subject to all the public review provisions of 62 Ill. Adm. Code 1773 and 1774, except when the extent of the area of topsoil substitutes or supplements is less

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- then-ten-(10)-percent-of-the-permit-area--or--fifty--(50)--acres  
whichever-is-less--the-topsoil-is-to-be-substituted-or-supplemented  
are--not--prime--farmland--and--the--plan--otherwise--meets--the  
requirements-of-62-III-Adm-Code-1774-13(b)(2)-
- A) Placement of topsoil or topsoil substitutes on such embankments is inconsistent with the requirement to use the best technology currently available to prevent sedimentation; and
- B) Such embankments will be otherwise stabilized.
- 4) Nutrients and soil amendments shall be applied to the initially redistributed material when necessary to establish the required vegetative cover.
- e) Subsoil segregation. The Department may require that the B horizon, C horizon, or other underlying strata, or portions thereof, be removed and segregated, stockpiled, and redistributed as subsoil in accordance with the requirements of subsections (c) and (d) if it finds that such subsoil layers are necessary to comply with the revegetation requirements of Sections 1816.111, 1816.113, 1816.114, 1816.116 and 1816.117

(Source: Amended at 19 Ill. Reg. \_\_\_\_\_, effective \_\_\_\_\_)

Section 1816.41 Hydrologic Balance Protection

- a) General. All surface mining and reclamation activities shall be conducted to minimize disturbance of the hydrologic balance within the permit and adjacent areas, to prevent material damage to the hydrologic balance outside the permit area, such as diminution of recharge capacity, to prevent violations of State and Federal water quality standards and effluent limitations, to assure the protection or replacement of water rights, and to support approved post-mining land uses in accordance with the terms and conditions of the approved permit and the performance standards of this Part. The Department shall require additional preventative, remedial, or monitoring measures to assure that material damage to the hydrologic balance outside the permit area is prevented if the current approved plan is not sufficient to achieve this protection. Mining and reclamation practices that minimize water pollution and changes in flow shall be used in preference to water treatment.
- b) Ground water protection. In order to protect the hydrologic balance, surface mining activities shall be conducted according to the plan approved under 62 Ill. Adm. Code 1780.21(h) and the following:
- 1) Ground water quality shall be protected by handling earth materials and runoff in a manner that minimizes acidic, toxic, or other harmful infiltration to ground water systems and by managing excavations and other disturbances to prevent or control the discharge of pollutants into the ground water.
- 2) Ground water quantity shall be protected by handling earth materials and runoff in a manner that will restore the approximate premining recharge capacity of the reclaimed area as a whole, excluding coal mine waste disposal areas and fills, so

- than-ten-(10)-percent-of-the-permit-area--or--fifty--(50)--acres  
whichever-is-less--the-topsoil-is-to-be-substituted-or-supplemented  
are--not--prime--farmland--and--the--plan--otherwise--meets--the  
requirements-of-62-III-Adm-Code-1774-13(b)(2)-
- c) Storage
- 1) Materials removed under subsection (a) if not redistributed immediately shall be segregated and stockpiled.
- 2) Stockpiled materials shall:
- A) Be selectively placed on a stable site within the permit area;
- B) Be protected from contaminants and unnecessary compaction that would interfere with revegetation;
- C) Be protected from wind and water erosion through prompt establishment and maintenance of an effective, quick growing vegetative cover or through other measures equally effective in controlling erosion approved by the Department; and
- D) Not be moved until required for redistribution unless approved by the Department.
- 3) Where long-term surface disturbances will result from facilities such as support facilities and preparation plants and where stockpiling of materials removed under subsection (a)(1) would be detrimental to the quality or quantity of those materials, the Department may approve the temporary distribution of the soil materials so removed to an approved site within the permit area to enhance the current use of that site until needed for later reclamation provided that:
- A) Such action will not permanently diminish the capability of the topsoil of the host site; and
- B) The material will be retained in a condition more suitable for redistribution than if stockpiled.

- d) Redistribution
- 1) Topsoil materials removed under subsection (a) shall be redistributed in a manner that:
- A) Achieves an approximate uniform, stable thickness consistent with the approved post-mining land use, contours and surface-water drainage systems;
- B) Prevents excess compaction of the materials; and
- C) Protects the materials from wind and water erosion and contamination before and after seeding and planting.
- 2) Before redistribution of the material removed under subsection (a) the regraded land shall be treated if necessary to reduce potential slippage of the redistributed material and to promote root penetration. If no harm will be caused to the redistributed material and reestablished vegetation, such treatment may be conducted after such material is replaced.
- 3) The Department shall not require the redistribution of topsoil or topsoil substitutes on the approved post-mining embankments of permanent impoundments or of roads if it determines that:



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as to allow the movement of water to the ground water system.

c) Ground water monitoring.

1) Ground water monitoring shall be conducted according to the ground water monitoring plan approved under 62 Ill. Adm. Code 1780.21(i). If unanticipated conditions develop, or if an approved operation or reclamation plan is modified or revised such that the current monitoring program would not detect possible adverse impacts to the hydrologic balance as a result of this change, then the Department shall require additional monitoring including, but not limited, to increased monitoring frequency, additional monitoring wells or changes in the number of parameters being monitored, when it is determined that the proposed, or approved, monitoring plan is not adequate to detect adverse impacts to the hydrologic balance.

2) Ground water monitoring data shall be submitted every three (3) months to the Department or more frequently as prescribed by the Department. Ground water monitoring reports shall be submitted by the first day of the second month following the reporting period, unless the Department specifies an alternative reporting schedule. Monitoring reports shall include analytical results from each sample taken during the reporting period. When the analysis of any ground water sample indicates noncompliance with the permit conditions, then the operator shall promptly notify the Department and immediately take the actions provided for in 62 Ill. Adm. Code 1773.17(e) and 1780.21(h).

3) Ground water monitoring shall proceed through mining and continue during reclamation until bond release. Consistent with the procedures of 62 Ill. Adm. Code 1774.13, the Department may modify the monitoring requirements when such changes to the approved plan do not diminish the ability to detect adverse impacts to the hydrologic balance, including the parameters covered and the sampling frequencies, if the operator demonstrates, using the monitoring data obtained under this subsection that:

A) The operation has minimized disturbance to the hydrologic balance in the permit and adjacent areas and prevented material damage to the hydrologic balance outside the permit area; water quality and quantity are suitable to support approved post-mining land uses; and the water rights of other users have been protected or replaced; or

B) Monitoring is no longer necessary to achieve the purposes set forth in the monitoring plan approved under 62 Ill. Adm. Code 1780.21.

4) Equipment, structures, and other devices used in conjunction with monitoring the quality and quantity of ground water onsite and offsite shall be properly installed, maintained, and operated and shall be removed by the operator when no longer needed, except as provided for under subsection (g).

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d) Surface water protection. In order to protect the hydrologic balance, surface mining activities shall be conducted according to the plan approved under 62 Ill. Adm. Code 1780.21(i) and the following:

1) Surface water quality shall be protected by handling earth materials, ground water discharges, and runoff in a manner that minimizes the formation of acidic or toxic drainage; prevents, to the extent possible using the best technology currently available, additional contributions of suspended solids to streamflow outside the permit area; and otherwise prevents water pollution. If drainage control, reclamation and revegetation of disturbed areas, diversion of runoff, mulching, or other reclamation and remedial practices are not adequate to meet the requirements of this Section and Section 1816.42, the operator shall use and maintain the necessary water treatment facilities or water quality controls.

2) Surface water quantity and flow rates shall be protected by handling earth materials and runoff in accordance with the steps outlined in the plan approved under 62 Ill. Adm. Code 1780.21(h).

e) Surface water monitoring.

1) Surface water monitoring shall be conducted according to the surface water monitoring plan approved under 62 Ill. Adm. Code 1780.21(j). If unanticipated conditions develop, or if an approved operation or reclamation plan is modified or revised such that the current monitoring program would not detect possible adverse impacts to the hydrologic balance as a result of this change, then the Department shall require additional monitoring including, but not limited to, changes in the number of parameters or frequency of sample collection, when it is determined that the approved plan is not designed to detect adverse impacts to the hydrologic balance.

2) Surface water monitoring data shall be submitted to the Department every three (3) months, or more frequently as prescribed by the Department in those circumstances where a more frequent monitoring schedule is necessary to detect adverse impacts to the surface water system. This shall include, but not necessarily be limited to, copies of reports submitted for the National Pollutant Discharge Elimination System (NPDES) sent to the Illinois Environmental Protection Agency (EPA). Copies of NPDES reports shall be sent to the Department ~~concurrently with those sent into the Illinois EPA~~ by the first day of the second month following the reporting period. Monitoring reports shall include analytical results from each sample taken during the reporting period. When the analytical results of any surface water sample indicates noncompliance with the permit conditions, the operator shall notify the Department within five (5) days and immediately take the actions provided for in 62 Ill. Adm. Code 1773.17(e) and 1780.21(h). The reporting requirements of this paragraph do not exempt the operator from meeting any NPDES

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reporting requirements.

3) Surface water monitoring shall proceed through mining and continue until bond release. Consistent with 62 Ill. Adm. Code 1774.13, the Department may modify the monitoring requirements, except those required by the Illinois EPA, when such changes to the approved plan do not diminish the ability to detect adverse impacts to the hydrologic balance, including the parameters covered and sampling frequency if the operator demonstrates using the monitoring data that:

- A) The operation has minimized disturbance to the hydrologic balance in the permit and adjacent areas and prevented material damage to the hydrologic balance outside the permit area; water quantity and quality are suitable to support approved post-mining land uses; and the water rights of other users have been protected or replaced; or
- B) Monitoring is no longer necessary to achieve the purposes set forth in the monitoring plan approved under 62 Ill. Adm. Code 1780.21(j).

4) Equipment, structures, and other devices used in conjunction with monitoring the quality and quantity of surface water onsite and offsite shall be properly installed, maintained, and operated and shall be removed by the operator when no longer needed, except as provided for in Section 1816.49(b).

f) Acid- and toxic-forming materials.

1) Drainage from acid- and toxic-forming materials into surface water and ground water shall be avoided by:

- A) Identifying and burying and/or treating, when necessary, materials which may adversely affect water quality, or be detrimental to vegetation or to public health and safety if not buried and/or treated, and

B) Storing materials in a manner that will protect surface water and ground water by preventing erosion, the formation of polluted runoff, and the infiltration of polluted water. Storage shall be limited to the period until burial and/or treatment first become feasible, and so long as storage will not result in any risk of water pollution or other environmental damage.

2) Storage, burial or treatment practices shall be consistent with other material handling and disposal provisions of Section 1816.102.

g) Before final release of bond, exploratory or monitoring wells shall be sealed in a safe and environmentally sound manner in accordance with Sections 1816.13 through 1816.15. With prior approval of the Department, wells may be transferred to another party for further use. At a minimum, the conditions of such transfer shall comply with State and local law and the permittee shall remain responsible for the proper management of the well until bond release in accordance with Sections 1816.13 through 1816.15.

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h) Any person who conducts surface mining activities shall replace the water supply of an owner of interest in real property who obtains all or part of his or her supply of water for domestic, agricultural, industrial, or other legitimate use from an underground or surface source, where the water supply has been adversely impacted by contamination, diminution, or interruption proximately resulting from the surface mining activities. Information used to determine the extent of the impact of mining upon ground water and surface water shall include, but not be limited to, baseline hydrologic information required in 62 Ill. Adm. Code 1780.21 and 1780.22.

i) Discharges into an underground mine.

1) Discharges into an underground mine are prohibited, unless specifically approved by the Department after a demonstration that the discharge will:

- A) Minimize disturbance to the hydrologic balance on the permit area, prevent material damage outside the permit area and otherwise eliminate public hazards resulting from surface mining activities;
- B) Not result in a violation of water quality standards or effluent limitations set forth in Section 1816.42;
- C) Be at a known rate and quality which shall meet the effluent limitations of Section 1816.42 for pH and total suspended solids, except that the Department may allow pH and total suspended solids to exceed effluent limits so long they will not result in any adverse impacts to the hydrologic balance, and
- D) Meet with the approval of the Mine Safety and Health Administration.

2) Discharges shall be limited to the following:

- A) Water;
- B) Coal processing waste;
- C) Fly ash from a coal-fired facility;
- D) Sludge from an acid-mine drainage treatment facility;
- E) Flue-gas desulfurization sludge;
- F) Inert materials used for stabilizing underground mines; and
- G) Underground mine development wastes.

(Source: Amended at 19 Ill. Reg. \_\_\_\_\_, effective \_\_\_\_\_)

## Section 1816.46 Hydrologic Balance: Siltation Structures

a) Definitions. For the purpose of this Section only:

- 1) Siltation structure means a sedimentation pond, a series of sedimentation ponds, or other treatment facility.
- 2) Disturbed area shall not include those areas:

- A) In which the only surface mining activities include diversion ditches, siltation structures, or roads that are

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designed, constructed, and maintained in accordance with this Part; and

B) For which the upstream area is not otherwise disturbed by the permittee.

- 3) Other treatment facilities means any chemical treatments, such as flocculation, or mechanical structures, such as clarifiers, that have a point-source discharge and that are utilized to prevent additional contributions of suspended solids to stream flow or runoff outside the permit area.

## b) General Requirements.

- 1) Additional contributions of suspended solids sediment to stream flow or runoff outside the permit area shall be prevented to the extent possible using the best technology currently available.
  - 2) All surface drainage from the disturbed area shall be passed through a siltation structure before leaving the permit area, except as provided in subsection (b)(5) or (e).
  - 3) Siltation structures for an area shall be constructed before beginning any surface mining activities in that area and, upon construction, shall be sealed by a qualified registered professional engineer to be constructed as designed and as approved in the reclamation plan.
  - 4) Any siltation structure which impounds water shall be designed, constructed, and maintained in accordance with Section 1816.49.
  - 5) Siltation structures shall be maintained until removal is authorized by the Department and the disturbed area has been stabilized and revegetated. In no case shall the structure be removed sooner than two (2) years after the last augmented seeding.
  - 6) When a siltation structure is removed, the land on which the siltation structure was located shall be regraded and revegetated in accordance with the reclamation plan and Sections 1816.111 through 1816.117. Sedimentation ponds approved by the Department for retention as permanent impoundments shall be exempted from this requirement.
  - 7) The Department encourages the retention of sedimentation ponds which will receive drainage from agricultural areas in the post-mining land use plan.
- c) Sedimentation ponds.
- 1) When used, sedimentation ponds shall:
    - A) Be used individually or in series;
    - B) Be located as near as possible to the disturbed area and out of perennial streams unless approved by the Department in accordance with Section 1816.57; and
    - C) Be designed, constructed, and maintained to:
      - i) Provide adequate sediment storage volume;
      - ii) Provide adequate detention time to allow the effluent from the ponds to meet limitations specified in Section 1816.42;

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- iii) Contain or treat the ten (10) year, twenty-four (24) hour precipitation event ("design event") unless a lesser design event is approved by the Department based on terrain, climate, other site specific conditions, and on a demonstration by the permittee that the effluent limitations of Section 1816.42 will be met;
  - iv) Provide a nonclogging dewatering device adequate to maintain the detention time required under subsection (c)(1)(C)(ii);
  - v) Minimize, to the extent possible, short circuiting;
  - vi) Provide periodic sediment removal sufficient to maintain adequate volume for the design event;
  - vii) Ensure against excessive settlement;
  - viii) Be free of sod, large roots, frozen soil, and acid- or toxic-forming coal processing waste; and
  - ix) Be compacted properly.
- 2) Sedimentation pond discharge structures shall be designed according to the following:
- A) Sedimentation ponds meeting the size or other qualifying criteria of 30 CFR 77.216(a)(19861994) shall comply with all the requirements of 30 CFR 77.216(19861994) and shall have principal and emergency spillways that in combination will safely pass a one hundred (100) year, six (6) hour precipitation event; and
  - B) Sedimentation ponds not meeting the size or other qualifying criteria of 30 CFR 77.216(a)(19861994) shall provide a combination of principal and emergency spillways that will safely discharge a twenty-five (25) year, six (6) hour precipitation event. Such ponds may use a single spillway if the spillway:
    - i) Is an open channel of nonerodable construction and capable of maintaining sustained flows; and
    - ii) Is not earth- or grass-lined.
  - C) 30 CFR 77.216 (19861994) does not include any later amendments or editions.
- d) Other treatment facilities.
- 1) Other treatment facilities shall be designed to treat the ten (10) year, twenty-four (24) hour precipitation event unless a lesser design event is approved by the Department based on terrain, climate, other site specific conditions, and a demonstration by the permittee that the effluent limitations of Section 1816.42 will be met.
  - 2) Other treatment facilities shall be designed in accordance with the applicable requirements of subsection (c).
- e) Exemptions. Exemptions to the requirements of this Section to pass all drainage from disturbed areas through a siltation structure may be



- granted if:
- 1) The disturbed drainage area within the total disturbed area is small; and
  - 2)
    - a) Alternate sediment control measures as described in Section 1816.45(b) are used in lieu of a siltation structure, and the permittee demonstrates that siltation structures are not necessary for drainage from the disturbed area to meet the effluent limitations and water quality standards for the receiving waters set forth in Section 1816.42; or
    - b) The permittee demonstrates that siltation structures and alternate sediment control measures are not necessary for drainage from the disturbed area to meet the effluent limitations and water quality standards for the receiving waters set forth in Section 1816.42.

(Source: Amended at 19 Ill. Reg. \_\_\_\_\_, effective \_\_\_\_\_)

#### Section 1816.79 Protection of Underground Mining

- a) No surface coal mining activities shall be conducted closer than five hundred (500) feet to any point of either an active or abandoned underground mine, except to the extent that:
  - 1) The nature, timing, and sequence of the activities that propose to mine closer than five hundred (500) feet to an active underground mine are jointly approved by the Department and the Mine Safety and Health Administration (MSHA); and
  - 2) a) The activities result in improved resource recovery, abatement of water pollution, or elimination of hazards to the health and safety of the public; and
  - b) Surface mining activities shall be designated to protect disturbed surface areas, including spoil disposal sites, so as not to endanger any present or future operations at either surface or underground mining activities. The nature, timing and sequence of the activities that propose to mine closer than five hundred (500) feet to an active underground mine are jointly approved by the Department and the Mine Safety and Health Administration (MSHA).

(Source: Amended at 19 Ill. Reg. \_\_\_\_\_, effective \_\_\_\_\_)

#### Section 1816.97 Protection of Fish, Wildlife, and Related Environmental Values

- a) The operator shall, to the extent possible using the best technology currently available, minimize disturbances and adverse impacts of the activities on fish, wildlife, and related environmental values, and shall achieve enhancement of such resources where practicable.

- b) No surface mining activity shall be conducted which is likely to jeopardize the continued existence of endangered or threatened species listed by the Secretary of the United States Department of the Interior (Secretary) or which is likely to result in the destruction or adverse modification of designated critical habitats of such species in violation of the Endangered Species Act of 1973, as amended (16 U.S.C. 1531 et seq.) or the Illinois Endangered Species Protection Act (1977 Rev. Stat. ch. 87, par. 1-10). The operator shall immediately report to the Department any State- or federally-listed endangered or threatened species within the permit area of which the operator becomes aware. Upon notification, the Department shall consult with appropriate State and Federal fish and wildlife agencies and, after consultation, shall identify whether, and under what conditions, the operator may proceed.
- c) No surface mining activity shall be conducted in a manner which would result in the unlawful taking of a bald or golden eagle, its nest, or any of its eggs. The operator shall promptly report to the Department any golden or bald eagle nest within the permit area of which the operator becomes aware. Upon notification, the Department shall consult with the U.S. Fish and Wildlife Service and also, where appropriate, the State fish and wildlife agency and after consultation, shall identify whether, and under what conditions, the operator may proceed in order to ensure that the operation is not in violation of the Endangered Species Act of 1973, as amended, (16 U.S.C. 1531 et seq.).
- d) Nothing in these regulations shall authorize the taking of an endangered or threatened species or a bald or golden eagle, its nest, or any of its eggs in violation of the Endangered Species Act of 1973, as amended, (16 U.S.C. 1531 et seq.), or the Bald Eagle Protection Act, as amended, (16 U.S.C. 668 et seq.).
- e) Each operator shall, to the extent possible using the best technology currently available:
  - 1) Ensure that electric powerlines and other transmission facilities used for, or incidental to, surface mining activities on the permit area are designed and constructed to minimize electrocution hazards to raptors, except where the Department determines that such requirements are unnecessary, due to factors such as the absence of raptors;
  - 2) Locate and operate haul and access roads so as to avoid or minimize impacts on important fish and wildlife species or other species protected by State or Federal law specified in 62 Ill. Adm. Code 1773.12;
  - 3) Design fences, overland conveyers, and other potential barriers to permit passage for large mammals, except where the Department determines that such requirements are unnecessary, due to factors such as the absence of large mammals; and
  - 4) Fence, cover, or use of other appropriate methods to exclude wildlife from ponds which contain hazardous concentrations of

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- toxic-forming materials.
- f) The operator conducting surface mining activities shall avoid disturbances to, enhance where practicable, restore, or replace, wetlands, and riparian vegetation along rivers and streams and bordering ponds and lakes. Surface mining activities shall avoid disturbances to, enhance where practicable, or restore, habitats of unusually high value for fish and wildlife such as wetlands and riparian vegetation.
- g) Where fish and wildlife habitat is to be a post-mining land use, the plant species to be used on reclaimed areas shall be selected on the basis of the following criteria:
- 1) Their proven nutritional value for fish or wildlife.
  - 2) Their use as cover for fish or wildlife.
  - 3) Their ability to support and enhance fish or wildlife habitat after the release of performance bonds. The selected plants shall be grouped and distributed in a manner which optimizes edge effect, cover, and other benefits to fish and wildlife.
- h) Where cropland is to be the post-mining land use, where appropriate for wildlife and crop management practices, the operator shall intersperse the fields with trees, hedges, or fence rows throughout the harvested area to break up large blocks of monoculture and to diversify habitat types for birds and other animals.
- i) Where residential, public service, or industrial uses are to be the post-mining land use, and where consistent with the approved post-mining land use, the operator shall intersperse reclaimed lands with greenbelts utilizing species of grass, shrubs, and trees useful as food and cover for wildlife.

(Source: Amended at 19 Ill. Reg. \_\_\_\_\_, effective \_\_\_\_\_)

**Section 1816.116 Revegetation: Standards for Success**

- a) Success of Revegetation
- 1) Success of revegetation shall be judged in accordance with Sections 1816.116 and 1816.117.
  - 2) Requirements
    - A) The period of extended responsibility for successful revegetation shall begin after the last year of augmented seeding, fertilizing, irrigation, or other work, excluding husbandry practices that are approved by the Department in accordance with subsection (a)(2)(C) below.
    - B) The period of extended responsibility shall continue for a period of not less than five (5) full years, except that on lands eligible for re-mining, the period of responsibility (until September 30, 2004) shall be two (2) full years. Vegetation parameters identified in subsection (a)(1) shall equal or exceed the approved success standard set forth in

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## subsection (a)(3).

- C) The Department shall approve selective husbandry practices, excluding irrigation or augmented seeding or augmented fertilization, without extending the period of responsibility for revegetation success and bond liability, if such practices can be expected to continue as part of the post-mining land use or if discontinuance of the practices after the liability period expires will not reduce the probability of permanent revegetation success. Approved practices shall be normal conservation and land use management practices within the region for unmined lands having land uses similar to the approved post-mining land use of the disturbed area, including such practices as disease, pest, and vermin control; any pruning, reseedling and/or transplanting specifically necessitated by such actions; approved agricultural practices described in the Illinois Agronomy Handbook (1993-94); and those practices which are a part of an approved conservation plan subject to the Food, Agriculture, Conservation and Trade Act of 1990 (7 U.S.C. 1421 et seq.). On all lands with a postmining land use other than cropland, any areas reseeded or replanted as a part or result of a normal husbandry practice must be sufficiently small in size and limited in extent of occurrence, or part of a hay management plan which is an agricultural practice described by the Illinois Agronomy Handbook or as part of an approved conservation plan subject to the Food, Agriculture, Conservation and Trade Act of 1990, and the reestablished vegetation must be in place for a sufficient length of time so as not to adversely affect the Department's ability to make a valid determination at the time of bond release as to whether the site has been properly reclaimed to a condition in which it will support a diverse, effective, permanent vegetative cover of the required nature and productivity. The Illinois Agronomy Handbook is published by the University of Illinois-Cooperative Extension Service, Office of Agricultural Communications and Education, 69E Mumford Hall, 1301 West Gregory Drive, Urbana, Illinois 61801. Copies of the Illinois Agronomy Handbook and the Food, Agriculture, Conservation, and Trade Act of 1990 are available at the Department's Springfield office located at 300 West Jefferson, Suite 300, P.O. Box 10197, Springfield, Illinois 62791-0197.

- D) Rill and gully repair on cropland-capable reclaimed land will not be considered augmentation if an operator has an approved erosion control plan in place in the field pursuant to 62 Ill. Adm. Code 1823.14(g) or 1825.14(f), and shortly after the first rainfall event after the repair, the

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Department makes the following determinations:

- i) the area is a minor erosional feature;
- ii) the area is small;
- iii) the erosion is not expected to recur; and
- iv) the area is stable.

The Department shall notify the permittee in writing whether or not a repair is augmentative. Such written notice shall be in the form of an inspection report or other document issued by the Department.

E) Rill and gully repair on noncropland-capable land will not be considered augmentation if, shortly after the first rainfall event after the repair, the Department makes the following determinations:

- i) the area is a minor erosional feature;
- ii) the area is small;
- iii) the erosion is not expected to recur; and
- iv) the area is stable.

The Department shall notify the permittee in writing whether or not a repair is augmentative. Such written notice shall be in the form of an inspection report or other document issued by the Department.

## F) Augmentation

- †) in those cases where a permittee augments any high capability cropland areas in order to achieve the revegetation success standards of subsection (a)(3)(e) above, the permittee shall apply the same or superior augmentation measures to all other high capability lands reclaimed using the same techniques and the five (5) year period of responsibility shall recommence when the Department shall waive augmentation if the other high capability areas have been previously augmented in a similar or superior manner or have met the revegetation success standards for cropland or the permittee can document a minimum of three (3) years of successful woody species establishment for forest products and wildlife habitat land uses as required by Section 1816.117(a). If the woody species have been planted less than three (3) years prior to the augmentation of the high capability cropland areas, the Department shall grant additional time to evaluate the success of the woody species planting.
- ††) the five (5) year period of responsibility shall not recommence on areas where the operator has met the revegetation success standards of subsection (a)(3)(e) above;
- †††) if high capability cropland is augmented, the Department shall retain sufficient performance bond at the time of phase II performance bond release to

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~~ensure the cost of similarly augmenting all other high capability lands, if required, is covered in the remaining bond amount.~~

Wetlands shall be considered augmented when significant alterations are made to the size or character of the watershed, pumping is used to maintain water levels, or neutralizing agents, chemical treatments or fertilizers are applied to the wetland area. Water level management using permanent water control structures is considered a normal husbandry practice.

3) Ground cover and production shall be considered equal to the approved success standard when they are not less than ninety (90) percent of the success standard. The sampling techniques for measuring success shall use a ninety (90) percent statistical confidence interval (i.e., one-sided t test with a 0.10 alpha error). Vegetative ground cover shall be measured using the technique set forth in 62 Ill. Adm. Code 1816.117(d). Standards for success shall be applied in accordance with the approved post-mining land use and, at a minimum, the following conditions:

A) The vegetative ground cover for areas previously disturbed by mining operations that were not reclaimed to the requirements 62 Ill. Adm. Code 1810 through 1828 and that are remined or otherwise redistributed by surface coal mining operations, shall not be less than the greater of 70% or the percentage of ground cover existing before redistribution, and shall be adequate to control erosion during the last year of the responsibility period;

B) For areas to be developed for industrial, commercial or residential use less than two (2) years after regrading is completed, the vegetative ground cover shall not be less than that required to control erosion and shall not be less than 70%;

C) For areas designated in the approved reclamation plan as cropland, except those cropland areas subject to 62 Ill. Adm. Code 1823.15, success of revegetation of cropland areas shall be determined in accordance with subsection (a)(4) below. Crop production shall be considered successful if it is ninety (90) percent of that crop production required in subsection (a)(4) with ninety (90) percent statistical confidence (i.e., one-sided t test with a 0.10 alpha error) for a minimum of any two (2) crop years of a ten (10) year period prior to release of the performance bond, except the first year of the five (5) year responsibility period. During the extended five (5) year responsibility period, erosion from cropland must be minimized using equivalent or better management practices than surrounding unmined cropland. The five (5) year responsibility period shall begin after the last year of augmented seeding, fertilizing,



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or soil treatment and at the time of the planting of the crop(s) to be grown for the productivity showing or crops grown in rotation. Crop production for proof of productivity purposes shall be initiated within ten (10) years after completion of backfilling and final grading. All cropland shall be maintained using proper management practices as set forth in subsection (a)(2)(C) above until the end of the responsibility period;

D) For areas to be developed for fish and wildlife habitat (including shelter belts), recreation, or forest products land uses, success of revegetation shall be determined on the basis of tree and shrub populations and ground cover. The tree and shrub population and ground cover shall meet the standards described in Section 1816.117; and

E) For areas designated as pasture and/or hayland or grazing land in the approved reclamation plan, except for erosion control devices and other structures (i.e., levees, ditches, waterways, impounding structures, etc.) productivity success ~~of--revegetation~~ (tons of grasses and/or legumes per acre) shall be determined in accordance with subsection (a)(4). Productivity shall be considered successful if it is ninety (90) percent of the productivity required in subsection (a)(4) with ninety (90) percent statistical confidence (i.e., one-sided t test with a 0.10 alpha error) for a minimum of any two (2) crop years of a ten (10) year period prior to release of the performance bond, except the first year of the five (5) year extended responsibility period. All pasture, hayland and grazing land shall be maintained using proper management practices as set forth in subsection (a)(2)(C) above until the end of the responsibility period. Production for proof of productivity purposes shall be initiated within ten (10) years after completion of backfilling and final grading. Ground cover shall be considered successful if it is ninety (90) percent with ninety (90) percent statistical confidence (i.e., one-sided t test with a 0.10 alpha error) for a minimum of any two (2) years of a ten (10) year period prior to the release of the performance bond, except the first year of the five (5) year extended responsibility period. On high capability land, the Department shall allow the permittee to substitute corn production for hay production. ~~this substitution--shall--be limited--to--one--(1)--attempt--regardless--of--success--~~ If determined to be a proper management practice in accordance with subsection (a)(2)(C) above, the Department shall allow the permittee to substitute one year of crop production of an allowable crop specified in subsection (a)(4)(D) below for one year of hay production on limited capability land.

F) Small isolated areas which were disturbed from activities

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such as, but not limited to, signs, boreholes and power poles, shall be considered successfully revegetated if the operator can demonstrate that the soil disturbance was minor, the soil has been returned to its original capability and the area is supporting its approved post-mining land use at the end of the responsibility period.

4) In order to use the Agricultural Lands Productivity Formula, Section 1816.Appendix A, to determine success of revegetation, the following shall apply:

A) The permittee shall submit annually, by February 15, a one (1) inch equals five hundred (500) feet ~~1:500~~ or larger scale drawing or aerial photograph delineating:

i) Field boundaries, a field numbering scheme and the total acreage for each field which will be cropped to demonstrate proof of productivity for the coming crop year. The Department shall approve such submittal if the information is correct and accurate. Once field boundaries are established in a submittal, the boundaries shall not be changed without recommencing the responsibility period, unless the submittal is amended in accordance with subsection (a)(4)(A)(ii) below; and

ii) The crop (e.g., hay, wheat, corn, soybeans, sorghum, etc.) which will be grown on each field to demonstrate proof of productivity for the coming crop year. The permittee may amend its scale drawing in accordance with 62 Ill. Adm. Code 1774.13(b)(2) until July 15 of the submittal year. Each such amendment shall contain a written explanation of changes from the original submittal and include a map reflecting the changes.

A field is an area of land reclaimed by a single reclamation technique that comprises either high capability land or prime farmland or limited capability pasture land. The size of the field and its boundaries are determined by such factors which include, but are not limited to, contour, non-cropped boundaries and size of farming equipment. The Department may approve a field to represent small isolated areas of the same capability if it determines that the field is representative of reclamation of such areas. The small isolated areas shall maintain a successful ground cover as determined by subsection (a)(3)(E) above. Productivity results on the field shall be applicable to the small isolated areas.

B) Fields identified in subsection (a)(4)(A) above to be measured for success of revegetation for cropland shall be planted annually to a single approved crop. The sampling

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method of Section 1816. Appendix A shall apply. Soil and water conservation practices approved in the permit application including but not limited to grass waterways, diversion ditches, contour grass strips, and sedimentation ponds within the boundaries of a field shall be excluded from the sampling requirements of Section 1816. Appendix A and shall remain vegetated with permanent ground cover species, where appropriate, to conserve soil and water resources. Subject to rulemaking, the Department in cooperation with the Illinois Department of Agriculture may determine if a portion of a field is a representative sample of the entire field when technology has developed to make it possible through physical and chemical agronomic testing to demonstrate success of vegetation through soil surveys or when statistically valid sampling procedures are developed for determining success of revegetation based upon cropping and sampling a representative portion of the field.

C) Adjustments for abnormal growing conditions shall be made if such adjustments are certified by a crop adjuster certified to perform adjustments by the Federal Crop Insurance Corporation. At the request of a permittee, the Department of Agriculture shall make arrangements for such an appraisal or adjustment review. Before any such appraisal or adjustment shall be arranged, the permittee shall file with the Illinois Department of Agriculture an agreement to pay the full cost of any crop adjustment or appraisal so requested.

D) The crops to be grown shall include those commonly grown on surrounding unmined cropland such as corn, soybeans, hay, sorghum, wheat, or oats. The Department may approve a hay crop use where this is a common use of unmined cropland in the surrounding area. Prime farmland and other cropland areas must include a minimum of one (1) successful year of corn and if the Department has approved its use a maximum of one (1) successful year each of hay, and wheat and oat crops. Prior successful hay production shall not be affected by deep tillage for crop production.

5) Wetland revegetation criteria shall be deemed successful when:

A) The wetland vegetation criteria in the Corps of Engineers Wetlands Delineation Manual (Department of the Army Technical Report Y-87-1, January 1987, published by the Department of the Army, Waterways Experiment Station, Corps of Engineers, P.O. Box 631, Vicksburg, Mississippi 39180-0631) have been achieved following sampling procedures specified in that manual, which does not include any later amendments or editions and is available for inspection and copying at the Department's office located at 300 West Jefferson, Suite 300, P.O. Box 10137, Springfield, Illinois

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62791-0137; and

B) Areas designed to support vegetation in the approved plan shall have a minimum aerial coverage of 30 percent. The testing procedure in Section 1816.117(d)(1) through (3) shall be used to evaluate the extent of cover. Aerial cover shall be determined to be present if any approved wetland species is measured at the increment. The percentage of aerial cover shall be established for the area tested by taking the total number of measurements where aerial cover was determined to be present.

b) The person who conducts surface mining activities shall:

1) Conduct periodic measurements of vegetation, soils, and water prescribed or approved by the Department, to identify if remedial actions are necessary during the applicable period of liability specified in subsection (a); and

2) Permittees shall submit by February 15 of each year a report of reclamation activities conducted during the previous calendar year, which initiate or may alter the responsibility period or are specifically required by the Department to evaluate a normal husbandry practice, using forms provided by the Department. Examples of reclamation activities to be reported and/or evaluated include but are not limited to crops used in temporary and permanent seedings, grasses and legumes planted, trees and shrubs planted, soil amendments added, and location and type of augmentation activities. The forms shall be submitted with a copy of the approved post-mining land use and capability map depicting the location of such activities. The map shall be planned as a continuous map so the reclamation activities conducted each year may be added and indicated on the map by the dates the activities were conducted.

c) The permittee may request the use of a reference area in lieu of the Agricultural Lands Productivity Formula Target Yields set forth in Section 1816. Appendix A to determine the success of revegetation for cropland and hayland. Other requirements and procedures of subsection (a)(4) above shall be applicable. Reference areas used to establish success standards under this Section must meet the following requirements:

1) If the fields to be represented contain in total eight hundred (800) acres or more, the reference area shall contain at least forty (40) acres. If the field(s) to be represented is smaller than eight hundred (800) acres, the reference area shall be the greater of five (5) percent of the field(s) to be represented or one (1) acre.

2) Each reference area shall be representative of the soils of the field(s) to be represented. The permittee shall provide adequate documentation of the soils and soil quality present in the reference area.

3) Each year the permittee shall provide a statement by an ARCPACS:

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A Federation of Certifying Boards in Agriculture, Biology, Earth and Environmental Sciences-certified professional or a certified agronomist that the management of the reference area is equivalent to the field(s) to be represented. The permittee shall describe the proposed management of the reference area in a proposal.

- 4) Reference areas shall be located within six (6) miles of the field(s) to be represented.
- 5) Right-of-entry on the reference area for authorized representatives of the Department and the Illinois Department of Agriculture must be secured by written agreement or consent for the entire time period in which the reference area will be used.
- 6) Proposed reference areas must be submitted for Department approval no later than February 15 of the year in which they are proposed to be used.
- 7) The reference area shall have yields established by whole field harvest and shall be documented by the Illinois Department of Agriculture.
- 8) Yields determined for the reference area shall be those used for determination of success of revegetation unless:
  - A) The Department determines that management practices have and been equivalent during the course of the year; or
  - B) The Department determines that growing conditions have not been representative of the fields to be tested.

(Source: Amended at 19 Ill. Reg. \_\_\_\_\_, effective \_\_\_\_\_)

## Section 1816.117 Revegetation: Tree and Shrub Vegetation

- a) For areas to be developed for fish and wildlife habitat (including shelter belts), recreation, or forest products land uses, success of vegetation shall be determined on the basis of tree and shrub population and vegetative ground cover. Such parameters are described as follows:

- 1) Trees and shrubs that will be used in determining the success of vegetation and the adequacy of plant arrangement shall have utility for the approved post-mining land use. Tree and/or shrub population shall be considered successful if it meets the population required in subsection (b) above below with ninety (90) percent statistical confidence (i.e., one-sided t test with a 0.10 alpha error) during the fifth year of the responsibility period or later in the responsibility period. On lands eligible for reining, the period of responsibility (until September 30, 2004) shall be two (2) full years. Trees and shrubs counted in determining such success shall be healthy, e.g. not demonstrating abnormal growth, coloring, leaf drop or disease. At the time of bond release such trees and shrubs shall be alive, and shall have

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been in place for at least three (3) growing seasons, i.e. three (3) years. Until September 30, 2004, on lands eligible for reining, trees and shrubs need not have been in place for three (3) years; however, such trees and shrubs shall not be counted in determining success during the same calendar year in which they were planted.

- 2) Vegetative ground cover shall not be less than required to achieve the approved post-mining land use and shall be adequate to control erosion and shall not be less than 70% during the last year of the responsibility period.
- 3) Permanent roads, parking lots and similar impervious structures on the revegetated area shall not require the planting of trees and shrubs or herbaceous ground cover. Erosion control structures, including pond embankments, shall not require the planting of trees and shrubs.
- 4) For purposes of this Section, herbaceous species means grasses, legumes and nonleguminous forbs; woody plants means woody shrubs, trees and vines; and ground cover means the area of ground covered by the combined aboveground parts of vegetation and the litter that is produced naturally on site.
- 5) For purposes of this Section, normal husbandry and conservation practices shall include pruning, disease, pest, vermin and herbaceous vegetation control including mowing, replanting, and fill and gully repairs. The replanting of trees and shrubs in areas described in 62 Ill. Adm. Code 1816.116(a)(2)(C) shall be limited to 20% of the original approved planting rate during the first year of the responsibility period and 10% of the original approved planting rate during the second year of the responsibility period. The repair of rills and gullies shall be limited to those approved as a normal conservation practice under 62 Ill. Adm. Code 1816.116(a)(2)(C), (D) and (E).
- b) For areas where woody plants are used for fish and wildlife habitat (including shelter belts), or recreation land uses, the area shall have a minimum population of two hundred and fifty (250) trees or shrubs per acre. Planting arrangements such as hedgerows, border plantings, clump plantings, shelterbelts, and open herbaceous areas which increase diversity within wildlife areas may be approved by the Department on a case-by-case basis prior to planting such areas. Where woody plants are used for forest products land uses, the area shall have a minimum population of four hundred and fifty (450) trees or shrubs per acre.
- c) For areas planted to trees or shrubs including wildlife habitat (including shelter belts), recreation, and forest products land uses, the sampling procedure for measuring populations is described as follows:

- 1) The permittee shall submit a scale drawing or aerial photograph delineating the area(s) field(s) to be sampled and the total number of acres in each area field. A one (1) inch equals five



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hundred (500) feet ~~(±500)~~ or larger scale shall be used. Once field boundaries are established in a submittal, the boundaries shall not be changed unless the Department approves a request in accordance with 62 Ill. Adm. Code 1774.13.

- 2) One of the following circular plot sizes shall be selected by the sample enumerator:

Plot Size/Acres	Radius/Feet
1/160	9.31
1/120	10.75
1/100	11.78
1/90	12.41
1/80	13.17
1/70	14.07
1/60	15.20
1/50	16.65
1/40	18.61
1/30	21.50
1/20	26.33
1/10	37.24
1/5	52.66
1/4	58.88

- 3) The number of plots needed to sample 2.5 percent of the area will be calculated employing the following formula:

Number of Plots equals 2.5 percent multiplied by Sample Area in acres divided by plot size.

- 4) Based on the number of plots needed to be sampled and plot size, locate transect lines an equal distance apart throughout the area to be sampled. Position individual plots an equal distance apart along transect lines. Determine the total length of all transect lines combined and then divide by the total number of plots needed to be sampled. When an individual plot is positioned within sixty (60) feet of the boundary of the area to be sampled, the location of the plot shall be moved perpendicular to the transect line until the plot is sixty (60) feet from the boundary of the area to be sampled or the greatest distance possible where sixty (60) feet cannot be achieved.

- 5) Sample each plot for compliance with subsections (a)(1) and (b) and record live trees and/or shrubs and species.

- 6) Calculate population levels as follows:

- A) Average number of live trees and/or shrubs per plot equals total number of live trees and/or shrubs divided by number of plots; and
- B) Number of live trees and/or shrubs per acre equals average number of live trees and/or shrubs per plot multiplied by plot size denominator.

- 7) Representatives of the Department or the Illinois Department of Conservation shall conduct all sampling.

- d) Vegetative ground cover shall be measured by the following technique:

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- 1) Twenty (20) random points shall be identified in the area to be tested.
- 2) A twenty (20) foot engineer's tape shall be extended directly south of each point. If the tape extends beyond the boundary of the area to be tested or extends into an area where herbaceous ground cover has been controlled with herbicides to minimize competition with woody plants, the tape shall be rotated in ninety (90) degree increments until the entire twenty (20) foot length is within the boundary of the area to be tested or area not treated with the herbicide.
- 3) A measurement shall be taken at each two tenths (.2) foot increment directly above or below the tape.
- 4) Ground cover shall be determined to be present if any vegetation identified in Section 1816.117(a)(4) is measured at the increment.
- 5) A percentage of ground cover shall be established for the area tested by taking the total number of measurements where ground cover was determined to be present.

(Source: Amended at 19 Ill. Reg. \_\_\_\_\_, effective \_\_\_\_\_)

## Section 1816.133 Post-Mining Land Capability

- a) All disturbed areas shall be restored in a timely manner to a condition capable of supporting:

- 1) The uses which they were capable of supporting prior to any mining; or
- 2) Higher or better uses of which there is a reasonable likelihood of restoration: Provided that, no plan of restoration shall be approved unless use of the area as proposed does not:
- A) Present any actual or probable hazard to public health or safety;
- B) Pose any actual threat of diminution or pollution pursuant to Section 1816.41; or
- C) That the proposed land use following restoration is not found to be impracticable or unreasonable by the Department or determined by the Department to be inconsistent with land use policies and plans which are applicable, or to involve unreasonable delay in implementation. No restoration plan shall be approved if the proposed land use following reclamation is violative of other applicable law.
- b) The premining capability of land to which the post-mining land capability is compared shall be the capabilities that the land would have supported if it had not been previously mined and had been properly managed. The post-mining land capability for land that has been previously mined and not reclaimed shall be judged on the basis

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- the embankment toe and then filled with compacted level lifts;
- 3) The embankment fill material shall be free of sod, large roots and other large vegetative matter;
  - 4) The fill shall be brought up in horizontal layers of such thickness as required to facilitate compaction in accordance with prudent construction standards;
  - 5) The moisture content of the fill material shall be sufficient to secure proper compaction;
  - 6) The side slopes of the embankment shall be no steeper than 2H:1V;
  - 7) Maximum fill height shall be twenty-five (25) feet as measured from natural ground at the downstream toe to the top of the embankment;
  - 8) Embankments shall have a minimum top width of  $(H + 35)/5$ , where "H" is the embankment height as measured from natural ground at the downstream toe to the top of the embankment, and shall be adequate for the intended use.

c) Location.

- 1) To minimize erosion, a primary road shall be located, insofar as is practicable, on the most stable available surface.
- 2) Fords of perennial or intermittent streams by primary roads are prohibited unless they are specifically approved by the Department as temporary routes during periods of road construction.

d) Drainage control. In accordance with the approved plan:

- 1) Each primary road shall be constructed or reconstructed, and maintained to have adequate drainage control, using structures such as, but not limited to bridges, ditches, cross-drains and ditch relief drains. The drainage control system shall be designed to safely pass the peak runoff from a 10-year, 6-hour precipitation event, or greater event as specified by the Department as necessary to ensure proper drainage control design in accordance with prudent engineering practices;
- 2) Drainage pipes and culverts shall be installed as designed, and maintained in a free and operating condition and to prevent or control erosion at inlets and outlets;
- 3) Drainage ditches shall be constructed and maintained to prevent uncontrolled drainage over the road surface and embankment;
- 4) Culverts shall be installed and maintained to sustain the vertical soil pressure, the passive resistance of the foundation, and the weight of vehicles using the road;
- 5) Natural stream channels shall not be altered or relocated without the prior approval of the Department in accordance with applicable sections of 62 Ill. Adm. Code 1816.41 through 1816.43 and 1816.57; and
- 6) Except as provided in subsection (c)(2) above, structures for perennial or intermittent stream channel crossings shall be made using bridges, culverts, low-water crossings, or other structures designed, constructed, and maintained using current, prudent

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of the land capability that existed prior to any mining: provided that, if the land cannot be reclaimed to the land capability that existed prior to any mining because of the previously mined condition, the post-mining land capability shall be judged on the basis of the highest and the best capability that can be achieved which is compatible with surrounding areas and does not require the disturbance of areas previously unaffected by mining. Quantification of land capability is to be done on the basis of acreage summaries for each land capability category, as defined in 62 Ill. Adm. Code 1701.5. The total acreage for each land capability category should approximate the corresponding premining acreage. Changes in total acreage from one land capability class to another shall require approval in accordance with Section 1816.133(a)(2).

- c) In determining the capability of affected land, the Department shall use as a guideline the handbook entitled: Land Capability Classification, Agriculture Handbook No. 210, published by the Soil Conservation Service of the U.S. Department of Agriculture. A copy of this handbook shall be on file with the Department and the Secretary of State. Interested persons may present views respecting the capability of affected lands in the due course of the Department's review of the permit application.

(Source: Amended at 19 Ill. Reg. \_\_\_\_\_, effective \_\_\_\_\_)

Section 1816.151 Primary Roads

Primary roads shall meet the requirements of Section 1816.150 and the additional requirements of this Section.

- a) Certification. The construction or reconstruction of primary roads shall be certified in a report submitted to the Department by a qualified registered professional engineer within thirty (30) days after completion of construction. For purposes of this Section, completion of construction shall mean the road is being used for its intended purpose as determined by the Department. The professional engineer shall be experienced in the design and construction of roads, as evidenced by the placement of a registered professional engineer's seal on the report. The report shall indicate that the primary road has been constructed or reconstructed as designed and in accordance with the approved plan.

- b) Safety Factor. Each primary road embankment shall be shown to have a minimum static factor of safety of 1.3, or shall be designed in compliance with the following design standards:

- 1) The embankment foundation area shall be cleared of all organic material and the entire foundation surface shall be scarified;
- 2) If the natural slope of the foundation as measured at right angles to the roadway center line is steeper than 8H:1V, the embankment shall be benched into the existing slope beginning at

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engineering practices. The Department shall ensure that low-water crossings are designed, constructed and maintained to prevent erosion of the structure or streambed and additional contributions of suspended solids to streamflow.

- e) Surfacing. Primary roads shall be surfaced with material approved by the Department as being sufficiently durable for the anticipated volume of traffic and the weight and speed of vehicles using the road.

(Source: Amended at 19 Ill. Reg. \_\_\_\_\_, effective \_\_\_\_\_)

## Section 1816.190 Affected Acreage Map

- a) On or before September 1 of each year every permit holder shall submit to the Department ~~and to the county clerk~~ reports and maps of affected areas.

- b) Two (2) copies, plus one (1) additional copy for each county in which the permit is located, of the reports and ~~the forms shall be executed and duplicate maps shall be attached~~ submitted showing the area affected during the fiscal year just ended. One of the copies submitted shall contain the original signature of a company official. The Department shall require the map to be executed by an engineer registered in accordance with the ~~Illinois Professional Engineering Act (1816-Rev--Stat--1989; ch--117; pars--5101-5104--sec--7)~~ Professional Engineering Practice Act of 1989 [225 ILCS 325] or a land surveyor registered in accordance with the ~~Land Surveyors Act (1816-Rev--Stat--1989; ch--117; pars--3201-3204--sec--1)~~ Illinois Professional Land Surveyor Act of 1989 [225 ILCS 330]. The Department shall then forward one copy to the county clerk.

- c) The map shall be planned as a continuous map, so that the area affected each year may be added and indicated on the map by the dates it was affected. Reports as required by Section 1816.190 shall be submitted to the Department on forms provided by the Department. Map scales shall be in accordance with 62 Ill. Adm. Code 1771.23(e)(1).

- d) All maps shall show sections, township, range and county lines coming within the scope of the map; access to the area from the nearest public road and all weather roads within the mined area; and a title containing name of the operator, address, scale of the map, by whom the map was drawn, name of the surveyor or engineer.

(Source: Amended at 19 Ill. Reg. \_\_\_\_\_, effective \_\_\_\_\_)

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## Section 1816.APPENDIX A Agricultural Lands Productivity Formula

## SOIL MASTER FILE

The Soil Master File of the Agricultural Lands Productivity Formula contains a comprehensive list of the soil mapping units currently recorded in Illinois. The Soil Master File provides the soil mapping unit number, common mapping name, and the high level of management yields for corn, soybeans, wheat, oats and mixed hay. The Soil Master File is created annually by the Illinois Department of Agriculture, pursuant to ~~1816-Rev--Stat--1989; ch--117; pars--40-38~~ 20 ILCS 205/40.38.

Additional components of the Soil Master File are as follows:

- 1) County number - identifies soils unique to a county. County number also distinguishes between soils with the same name in different counties but with unique soil properties and yields. County numbers are identified in Section 1816.Table C County Numbering System.
- 2) Variance code - physical conditions which would cause similar soil types to produce radically different yields. Variance code is explained in Section 1816.Table B Soil Variance Code.
- 3) Switch code - identifies a point at which a particular soil at a given slope and/or erosion category becomes either a new soil, a complex soil or moves from a favorable to unfavorable subsoil. The alphanumeric switch code is the new slope and erosion code.
- 4) Subsoil type - either #1 favorable, or #2 unfavorable subsoil condition. Percent of adjustment that will be applied to both the high management yield in subsoil conditions provided in Section 1816.Table A - Subsoil Adjustments.
- 5) Slope and erosion - this category provides adjusted high management yields for slope and erosion groups for each soil series for each crop in the Agricultural Lands Productivity Formula.

## COUNTY CROPPED ACREAGE FILE

The Agricultural Lands Productivity Formula requires that the number of cropped acres by soil mapping unit be calculated for each county. These calculations are generated by computer using the following formula:

$$\begin{array}{rcl} \text{Total acres per} & \text{percent of} & \text{acres per} \\ \text{soil type per} & \times & \text{total acreage} & = & \text{soil type} \\ \text{county} & & \text{cropped} & & \text{cropped} \end{array}$$



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management yield is used. The purpose of using the high management production is to derive a weighted average high management yield; which is, the total high management production (Column F) divided by the total grain acres in the county (Column D). The weighted high management yield figure will be used to derive a "factor" as described below:

Factor =  $\frac{\text{Official County Crop Yield}}{\text{Weighted High Management Yield}}$

Column G results from the multiplication of the above factor times the high level management yield of each soil mapping unit (Column E). The result is a yield which represents the average yield in either bushels per acre or tons per acre in the county for that year and crop.

PERMIT SPECIFICS  
YIELD STANDARD

- a) After completing calculations for the projected yield of the test year in question, a yield standard for each capability class in the disturbed area in the permit area must be calculated. The yield standard, which is also applicable to high capability and limited capability land will be calculated in a manner similar to prime farmland. ~~standards of Section 1816.116(f)(3)(e) will be calculated in the following manner:~~
- b) Subject to the provisions of subsection (c) through (f) below, the number of prime farmland acres in each soil mapping unit will be divided by the total prime farmland acres in the mine permit area to obtain a weighted proportion for each soil type. The weighted proportion of each prime farmland soil mapping unit in the permit area, relative to the total prime farmland acres in the permit area, will be multiplied times the projected yield for the pre-mining soil types. The weighted final yield for each prime farmland soil type in a mining permit area will be added together and the total becomes the yield requirement for the permit area.
- c) The Department shall provide for establishment of specific yield standards for the individual capability groups to be weighted for an individual pit, (geographically distinct mining area), if:
- 1) Multiple permits are adjacent and confined to a single continuous pit; or
  - 2) Multiple pits are not adjacent but are within an individual permit.
- d) If an individual mining pit is present in more than one county, annual target yield adjustments shall be based on the county with the greater permit acreage.
- e) After mining operations have ceased and at the request of the permittee, the Department shall recalculate the yield standards for the permit (pit) based solely on the soils which were disturbed. Recalculated targets shall be applicable to all areas tested for

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The percent of total acreage cropped per soil type will be provided by County Soil and Water Conservation Districts. Any changes to these figures must be approved by the County Soil and Water Conservation District Board with a certified copy of all changes submitted by August 15 of each year to the Illinois Department of Agriculture.

The County Cropped Acreage File reflects the total acres of each soil type per county, percent of acreage cropped, and the computed figure of total cropped acres by soil type in each county. The "total cropped acres" figures are carried forward to the County Average Yield File. The County Cropped Acreage File is created annually by the Illinois Department of Agriculture, pursuant to ~~Ill-Rev-Stat--1989, ch--127, par--40:30~~ 20 ILCS 205/40.38.

COUNTY AVERAGE YIELD FILE

The next procedure of the Agricultural Lands Productivity Formula is to equate annual county crop yield data to the soils derived in the "County Cropped Acreage File". Section 1816.Exhibit A and the following paragraphs summarize the procedure for calculating the crop yield for each soil mapping unit.

Column A reflects the soil mapping units as they appear on a county by county basis.

Column B is the number of acres cropped in a county per soil type as recorded in the County Cropped Acreage File. These cropped acreage figures are then added together to give a total number of acres cropped for the county.

Column C is the percent of the acreage represented by each soil type when compared with the total in Column B (Column B = total acres in soil mapping unit times the percent of acres cropped in the county by mapping unit).

The number of acres planted in grain (Column D) is calculated by multiplying the percent of each soil mapping unit in the county (Column C) by the total acres in the county harvested for corn, soybeans, wheat, oats, and mixed hay. (See asterisk in Section 1816.Exhibit A.) The purpose of this calculation is to estimate the number of acres harvested from each of the particular soil mapping units. It is assumed that 25% of the total corn, soybean, wheat, oat and mixed hay acreage was planted on that particular soil mapping unit. Therefore, the "grain acres" are distributed on the soil mapping units based upon the percent of acres in each soil mapping unit.

Column E is the adjusted yield information for each crop which comes from the Soil Master File.

Column F is a derived high management production (Figure) obtained by multiplying the figures in Column D times the figures in Column E. This production figure will normally exceed actual production because the high level

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productivity, after approval of the recalculation. Approved significant revisions after permanent cessation of mining shall cause the targets to be recalculated.

- f) At the request of the permittee, the Department shall consolidate prime farmland and high capability targets, provided the Department determines that the soil reconstruction of the high capability land is equal to or better than the prime farmland.

AGRICULTURAL LANDS PRODUCTIVITY FORMULA  
SAMPLING METHOD

The sampling methodology that the Illinois Department of Agriculture or the Illinois Department of Mines and Minerals will use to gather the data needed to determine if productivity has been returned to reclaimed mine land is summarized below for corn, soybeans, wheat, oats, sorghum, and mixed hay.

This sampling methodology requires an operator to submit by February 15 of each year, a scale drawing or aerial photo delineating specific field boundaries and type of crop which is to be sampled for proof of productivity for the current crop year. Each scale drawing and photo submitted shall include a field numbering scheme and the total acreage for each field on which sampling is being requested. In addition, the scaled drawing shall be no less than 1 inch equals 500 feet (1:500) or greater than 1 inch equals 100 feet (1:100). The February 15 annual submittal may be amended by the operator until July 15. Each such amendment shall contain a written explanation of changes from the original submittal and an aerial photograph or scaled drawing reflecting the corrected sampling submittal.

The determination of sample points within a specific field will be made on the basis of a grid overlay scheme with the location of sample points on the grid randomly generated by computer. An intentional bias of fifty feet (50') will be introduced to all field boundaries to remove the potential that sampling points may fall in turn around areas, or areas where contiguous soil reconstruction may cause field boundaries to not be indicative of whole field productivity.

The minimum acceptable number of samples to be taken relative to field size is shown in Section 1816. Table D sample points per crop acres, with fields of four acres or less to be sampled in their entirety with yields determined by harvest weight. Sample selections will take place using the following guidelines.

The Illinois Department of Agriculture may elect to increase the minimum number of acceptable sample points per field acres. Some factors which will be considered in determining whether to increase the number of sample points are as follows, but not limited to:

1. Operator requests additional sample points for specific fields.

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2. The use of different hybrids in one field.
3. Contour changes within one field which would alter a yield.
4. A coefficient of variation greater than 15%.

The Department and the Illinois Department of Agriculture shall jointly request the operator to verify yields by harvest weight (e.g., scale tickets) for reasons, including but not limited to:

1. Verification of random sampling results.
2. Availability of sample enumerators.
- 3- ~~Backlog-of-sample-processing-at-the-IBOA-lab-~~

In each such case, the certified harvest yield adjusted, to optimum moisture content, will become the comparison yield for the Agricultural Lands Productivity Formula target yield.

## CORN SAMPLING TECHNIQUE

- Step 1 - Mark the starting corner of the field to be sampled with a large stake and attach a ribbon or flag to it.

- Step 2 - Pace off predetermined sample point coordinates in a sequential fashion to determine individual sample locations.

- Step 3 - After taking the last of the required paces to the first sampling point, place a stake immediately adjacent to the closest corn stalk to the toe of your shoe. Measure 15 feet of the corn row starting at the first stake and placing a second stake at the 15 foot mark.

- Step 4 - Determine the 3rd and 4th ears of the first row starting with the first stalk of corn. Tag these ears with a rubber band. If there are less than four ears in the first row, the last ear and the next to last ear should be tagged. In the case where a stalk has more than one ear, count the top ear first. (Note: An ear of corn is defined as a cob having at least one kernel. The tagged ears will be used to determine the moisture content, and at least 250 grams of grain are need. If it does not appear that the 3rd and 4th ears will supply 250 grams of grain for a moisture test, then the 5th, 6th and/or 7th ear should be included until at least 250 grams of corn is collected.)

- Step 5 - Husk all ears in Row 1 within the fifteen foot segment of the sample. Husk the ears and snap the shank off as cleanly as possible. Be sure to include any ears tagged for moisture testing.

- Step 6 - Weigh the husked ears using a balance scale - obtain field weight in pounds.

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**Step 7 -** After weighing, put ears tagged for moisture testing into polyethylene bags and seal. Mark the bag with the appropriate field number (as supplied by the mine operator), and sample identification number.

**Step 8 -** Measure on a perpendicular line from the stalks in row one (1) to the stalks in row five (5). Divide this measured distance by four (4) to determine the average row width.

**Step 9 -** Repeat Steps 3 through 8 for each additional random sampling point coordinate.

**Step 10 -** Send or deliver to the Illinois Department of Agriculture any grain sample collected for moisture content analysis. (Note: If any single sample requires more than one bag, additional bags should be identified sequentially such as 1A, 1B, 1C.)

The following method will be used for determination of gross yield of corn samples. Gross yield is determined by deducting the adjustment for moisture content of shelled corn from the harvest weight. Moisture content of the grain sample will be determined by lab analysis.

Gross Yield = Harvest Weight adjusted for moisture content.

Included below for reference is the Gross Yield formula and an explanation of its components.

$$\text{Gross Yield} = \frac{A \times B \times C}{D} \div F$$

Per Acre  
(bu/ac)

Where: A = Field weight of husked ears of corn from 15 feet of row x 2 (2 Rows x 15 feet)

B = Weight of shelled grain at time of moisture test

C = Percent moisture in grain corrected to 15.5%

$$= 1.0 - \left( \frac{\text{moisture in grain}/100}{.845} \right)$$

D = Weight of ears of Corn used for moisture determination

E = Row Factor

Area or Percent of Acre 30" = 0.001722

Sampled with 30 feet 36" = 0.002066

Row (2 rows x 15 feet) 38" = 0.002181

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$$40" = 0.002295$$

and .845 = The standard moisture content conversion factor of corn per bushel (1.0 - (15.5%/100))

F = Weight of standard bushel of corn = 56 lbs.

After calculation of the gross yield, the statewide Harvest Loss will be subtracted from the gross yield to obtain a net yield per sample. Harvest loss is the difference between actual grain yield and what is hauled from a field. The net yield determinations for each sample will be averaged together to obtain a yield figure for the entire field being evaluated for proof of productivity.

SOYBEAN SAMPLING TECHNIQUE  
DRILLED OR PLANTED BEANS (>8" rows)

**Step 1 -** Mark the starting corner of the field to be sampled with a large stake and attach a ribbon or flag to it.

**Step 2 -** Pace off predetermined sample point coordinates in a sequential fashion to determine individual locations.

**Step 3 -** After taking the last of the required paces to the first sampling point, mark the closest plant to the toe of your foot. Place a flag at the point that you have just marked. From the point of this flag, and in the direction of travel from where the last pace was counted, measure a distance of six feet of plant row and place a flag at the six foot mark. Starting from the row just identified, measure the distance across five rows. This distance, from row one to row five, divided by four row spaces gives the average row width.

**Step 4 -** Strip all the soybean pods from all the plants in the 6 foot sample row. Pick up any loose pods or beans found on the ground at the base of these plants. Deposit all the pods, beans and blank pods, into a paper sack. Mark the sack with the appropriate field number (as provided by the mine operator), and sample identification number. Secure the sample sack to prevent any sample loss. (Note: If sample weight is less than the 250 grams needed for the moisture test, sufficient grain of known moisture content will be added to the sample so that moisture tests can be made.)

**Step 5 -** Repeat steps 3 and 4 for each additional random sampling point coordinate.

**Step 6 -** Send or deliver to the Illinois Department of Agriculture any grain sample collected for moisture content analysis. (Note: If any



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single sample requires more than one bag, additional bags should be identified sequentially such as 1A, 1B, 1C.)

The following method will be used for determination of gross yield of soybean samples. Gross yield is determined by deducting the adjustment of moisture content of the soybean sample from the harvest weight. Moisture content determinations will be made by lab analysis.

Gross Yield = Harvest Weight adjusted for moisture content.

Included below for reference is the Gross Yield formula and an explanation of its components.

Gross Yield  
Per Acre  
(bu./acre) = 
$$\frac{A \times B}{C \times D \times E}$$

Where: A = Weight of shelled grain from 6 feet of row  
B = Percent moisture in grain corrected to 12.5%  
=  $(1.0 - (\% \text{ moisture in shelled beans}/100\%))$  0.875

C = Number of grams per pound = 453.6  
D = Correction factor for row spacing on drilled or planted beans  
=  $\frac{43560 \text{ sq ft/acre}}{\text{Average row width in ft} \times 6 \text{ ft of row}}$   
E = Standard weight of 1 bushel of soybeans = 60 lbs

After calculation of the gross yield, the statewide Harvest Loss as calculated by the Illinois Agricultural Statistics Service will be subtracted from the gross yield to obtain a net yield per sample. Harvest loss is the difference between actual grain yield and what is hauled from a field. The net yield determination for each sample will be averaged together to obtain a yield figure for the entire field being evaluated for proof of productivity.

SOYBEAN SAMPLING TECHNIQUE  
DRILLED OR PLANTED (<8" rows)

- Step 1 - Mark the starting corner of the field to be sampled with a large stake and attach a ribbon or flag to it.
- Step 2 - Pace off predetermined sample point coordinates in a sequential fashion to determine individual sample locations.
- Step 3 - After taking the last of the required paces to the first sampling point, lay down a sampling frame so that it touches the toe of your

shoe, crossing the crop rows at a right angle. Mark the two ends of the sampling frame with stakes just inside the 3.0 foot sampling lines. Continue to lay out the sample area in the direction of travel from where the last pace was counted. Rotate the sampling frame so that it is perpendicular to one corner of the stake (previously marked), and at a right angle to the original frame position. (Note: If at any time the point of a time is restricted by a soybean plant, slide the soybean frame toward the starting point far enough for the point of the time to clear the plant.) Repeat this procedure to lay out the other two sides of the sampling square, using the opposite corner of the original frame position to find the other two sides.

Step 4 - Strip all the soybean pods from all the plants in the 9 square feet sampling area. Pick up any loose pods or beans found on the ground. Deposit all the pods, beans and blank pods into a paper sack. Mark the sack with the appropriate field number (as provided by the mine operator), and sample identification number. Secure the sample sack to prevent any sample loss. (Note: If sample weight is below 250 grams for the moisture test, grain of known moisture content will be added to the sample so that moisture tests can be made.)

Step 5 - Repeat steps 3 and 4 for each additional random sampling point coordinate.

Step 6 - Send or deliver to the Illinois Department of Agriculture any grain sample collected for moisture content analysis. (Note: If any single sample requires more than one bag, additional bags should be identified sequentially such as 1A, 1B, 1C.)

The following method will be used for determination of gross yield of soybean samples. Gross yield is determined by deducting the adjustment for moisture content of the soybean sample from the harvest weight. Moisture content of the grain sample will be determined by lab analysis.

Gross Yield = Harvest Weight adjusted for moisture content

Included below for reference is the Gross Yield formula and an explanation of its components.

Gross Yield Per Acre  
(bu./acre) = 
$$\frac{A \times B \times C}{D}$$

Where: A = Total weight of all beans in 9 sq. ft. grid (in grams)

B = Conversion factor =  $\frac{43560 \text{ sq. ft./ac.}}{9 \text{ sq. ft.}}$

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453.6 gms/lb x 60 lbs/bu x 9 sq. ft.

C = 1.0 - (% moisture in shelled beans/100%)

D = .875 = The standard moisture content conversion factor of soybeans per bushel (1.0 - (12.5%/100%)).

After calculation of the gross yield, the Harvest Loss will be subtracted from the gross yield to obtain a net yield per sample. Harvest Loss is the difference between actual grain yield and what is hauled from the field. The net yield determinations for each sample will be averaged together to obtain a yield figure for the entire field being evaluated for proof of productivity.

WHEAT SAMPLING TECHNIQUES  
(ROWS < 8 INCHES)

Step 1 - Mark the starting corner of the field to be sampled with a large stake and attach a ribbon or flag to it.

Step 2 - Pace off predetermined sample point coordinates in a sequential fashion to determine individual sample location.

Step 3 - After taking the last of the required paces to the first sampling point, lay down a sampling frame so that it touches the toe of your shoe, crossing the crop rows at a right angle. Mark the two ends of the sampling frame with stakes just inside the 1.8 foot sample lines. Continue to lay out the sample area in the direction of travel from where the last pace was counted. Rotate the sampling frame so that it is perpendicular to one corner of the stake (previously marked) and at a right angle to the original frame position. Repeat this procedure to lay out the other two sides of the sampling square using the opposite corner of the original frame position to find the other two sides.

Step 4 - Clip all wheat heads from within the square outlined by the sampling frame. The wheat heads should be clipped approximately 1/2 inch below the bottom of the head. Deposit all the collected wheat heads into a paper sample sack. Mark the sack with the appropriate field number (as supplied by the mine operator), and sample identification number. Secure the sample sack to prevent any sample loss. (Note: If sample weight is below 250 grams for the moisture test, grain of known moisture content will be added to the sample so that moisture tests can be made.)

Step 5 - Repeat steps 3 and 4 for each additional random sampling point coordinate.

Step 6 - Send or deliver to the Illinois Department of Agriculture grain

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sample collected for moisture content analysis. (Note: If any single sample requires more than one bag, additional bags should be identified sequentially such as 1A, 1B, 1C).

The following method will be used for determination of gross yield of wheat samples. Gross yield is determined by deducting the adjustment for moisture content of the wheat sample from the harvest weight. Moisture content of the grain sample will be determined by lab analysis.

Gross Yield = Harvest Weight adjusted for moisture content. Included below for reference is the Gross Yield formula and an explanation of its components.

$$\text{Gross Yield Per Acre} = \frac{A \times B \times C}{D} \quad (\text{bu/acre})$$

Where: A = Sample wt. of wheat in grams

B = 1.0 - (% moisture in grain/100%)

C = Conversion factor

$$= \frac{43560 \text{ sq. ft./ac}}{(60 \text{ lbs/bu} \times 453.6 \text{ gms/lb} \times 3.24 \text{ sq. ft.})}$$

$$= .4940 \text{ bu/gm acre}$$

D = .880 = The standard moisture content conversion factor of wheat per bushel (1.0 - (12%/100%))

After calculation of the gross yield, the Harvest Loss will be subtracted from the gross yield to obtain a net yield per sample. Harvest Loss is the difference between actual grain yield and what is hauled from a field. The net yield determinations for each sample will be averaged together to obtain a yield figure for the entire field being evaluated for proof of productivity.

WHEAT SAMPLING TECHNIQUES  
(Discernible Rows)

Step 1 - Mark the starting corner of the field to be sampled with a large stake and attach a ribbon or flag to it.

Step 2 - Pace off predetermined sample point coordinates in a sequential fashion to determine individual sample location.

Step 3 - After taking the last of the required paces to the first sampling point, lay down a sampling frame so that it touches the toe of your

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shoe, crossing the crop rows at a right angle. Mark the two ends of the sampling frame with stakes just inside the 1.8 foot sample lines. Continue to lay out the sample area in the direction of travel from where the last pace was counted. Rotate the sampling frame so that it is perpendicular to one corner of the stake (previously marked), and at a right angle to the original frame position. Repeat this procedure to lay out the other two rows to be sampled. (Total 3 rows) Note: The row spacing will be determined by measuring across 5 row spaces to obtain an average (i.e. the distance in row 1 to 5 / 4).

Step 4 - Clip all wheat heads from within the square outlined by the sampling frame. The wheat heads should be clipped approximately 1/2 inch below the bottom of the head. Deposit all the collected wheat heads into a paper sample sack. Mark the sack with the appropriate field number (as supplied by the mine operator), and sample identification number. Secure the sample sack to prevent any sample loss. (Note: If sample weight is below 250 grams for the moisture test, grain of known moisture content will be added to the sample so that moisture tests can be made.)

Step 5 - Repeat steps 3 and 4 for each additional random sampling point coordinate.

Step 6 - Send or deliver to the Illinois Department of Agriculture any grain sample collected for moisture content analysis. (Note: If any single sample requires more than one bag, additional bags should be identified sequentially such as 1A, 1B, 1C.)

The following method will be used for determination of gross yield of wheat samples. Gross yield is determined by deducting the adjustment for moisture content of the wheat sample from the harvest weight. Moisture content of the grain sample will be determined by lab analysis.

Gross Yield = Harvest Weight adjusted for moisture content

Included below for reference is the Gross Yield formula and an explanation of its components.

$$\text{Gross Yield Per Acre (bu/acre)} = \frac{(A \times B \times C)}{D}$$

Where: A = Sample wt. of wheat in grams

B =  $1.0 - (\% \text{ moisture in grain}/100\%)$

C = Conversion factor

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$$= \frac{43560 \text{ sq. ft./ac}}{(60 \text{ lbs/bu} \times 453.6 \text{ gms/lb} \times \text{no. of rows harvested} \times 1.8 \text{ ft} \times \text{average row spacing (ft)})}$$

D = .880 = The standard moisture content conversion factor of wheat per bushel ( $1.0 - (12\%/100\%)$ ).

After calculation of the gross yield, the statewide Harvest Loss will be subtracted from the gross yield to obtain a net yield per sample. Harvest Loss is the difference between actual grain yield and what is hauled from the field. The net yield determinations for each sample will be averaged together to obtain a yield figure for the entire field being evaluated for proof of productivity.

OATS SAMPLING TECHNIQUE  
(ROWS <8")

Step 1 - Mark the starting corner of the field to be sampled with a large stake and attach a ribbon or flag to it.

Step 2 - Pace off predetermined sample point coordinates in a sequential fashion to determine individual sample location.

Step 3 - After taking the last of the required paces to the first sampling point, lay down a sampling frame so that it touches the toe of your shoe, crossing the crop rows at a right angle. Mark the two ends of the sampling frame with stakes just inside the 1.8 foot sampling lines. Continue to lay out the sample area in the direction of travel from where the last pace was counted. Rotate the sampling frame so that it is perpendicular to one corner of the stake (previously marked) and at a right angle to the original frame position. Repeat this procedure to lay out the other two sides of the sampling square using the opposite corner of the original frame position to find the other two sides.

Step 4 - Clip all oat heads from within the square outlined by the sampling frame. The oat heads should be clipped approximately 1/2 inch below the bottom of the head.

Deposit all the collected oat heads into a paper sample sack. Mark the sack with the appropriate field number (as supplied by the mine operator), and sample identification number. Secure the sample sack to prevent any sample loss. (Note: If sample weight is below 250 grams for the moisture test, grain of known moisture content will be added to the sample so that moisture tests can be made.)

Step 5 - Repeat steps 3 and 4 for each additional random sampling point coordinate.



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**Step 6 -** Send or deliver to the Illinois Department of Agriculture any grain sample collected for moisture content analysis. (Note: If any single sample requires more than one bag, additional bags should be identified sequentially such as 1A, 1B, 1C.)

The following method will be used for determination of gross yield of oat samples. Gross yield is determined by deducting the adjustment for moisture content of the oat sample from the harvest weight. Moisture content of the grain samples will be determined by lab analysis.

Gross Yield = Harvest Weight adjusted for moisture content.

Included below for reference is the Gross Yield formula and an explanation of its components.

$$\text{Gross Yield Per Acre (bu/acre)} = \frac{A \times B \times C}{D}$$

Where: A = Sample weight of oats in grams

B = 1.0-(% moisture in grain/100%)

C = Conversion factor

$$= \frac{43560 \text{ sq. ft./ac}}{(32 \text{ lbs/bu} \times 453.6 \text{ gms/lb} \times 3.24 \text{ sq. ft.})}$$

$$= .9262 \text{ bu/gm acre}$$

D = .850 = The standard moisture content conversion factor of oats per bushel (1.0-(15%/100%))

After calculation of the gross yield, the statewide Harvest Loss will be subtracted from the gross yield to obtain a net yield per sample. Harvest Loss is the difference between actual grain yield and what is hauled from a field. The net yield determinations for each sample will be averaged together to obtain a yield figure for the entire field being evaluated for proof of productivity.

#### OATS SAMPLING TECHNIQUE (Discernible Rows)

**Step 1 -** Mark the starting corner of the field to be sampled with a large stake and attach a ribbon or flag to it.

**Step 2 -** Pace off predetermined sample point coordinates in a sequential fashion to determine individual sample location.

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**Step 3 -** After taking the last of the required paces to the first sampling point, lay down a sampling frame so that it touches the toe of your shoe, crossing the crop rows at a right angle. Mark the two ends of the sampling frame with stakes just inside the 1.8 feet sampling times. Continue to lay out the sample area in the direction of travel from where the last pace was counted. Rotate the sampling frame so that it is perpendicular to one corner of the stake (previously marked) and at a right angle to the original frame position. Repeat this procedure to lay out the other two rows to be sampled. Note: The row spacing will be determined by measuring across 5 row spaces to obtain an average (i.e. the distance in row 1 to 5 / 4).

**Step 4 -** Clip all oat heads from within the square outlined by the sampling frame. The oat heads should be clipped approximately 1/2 inch below the bottom of the head. Deposit all the collected oat heads into a paper sample sack. Mark the sack with the appropriate field number (as supplied by the mine operator), and sample identification number. Secure the sample sack to prevent any sample loss. (Note: If sample weight is below 250 grams for the moisture test, grain of known moisture content will be added to the sample so that moisture tests can be made.)

**Step 5 -** Repeat steps 3 and 4 for each additional random sampling point coordinate.

**Step 6 -** Send or deliver to the Illinois Department of Agriculture any grain sample collected for moisture content analysis. (Note: If any single sample requires more than one bag, additional bags should be identified sequentially such as 1A, 1B, 1C.)

The following method will be used for determination of gross yield of oat samples. Gross yield is determined by deducting the adjustment for moisture content of the oat sample from the harvest weight. Moisture content of the grain samples will be determined by lab analysis.

Gross Yield = Harvest Weight adjusted for moisture content

Included below for reference is the Gross Yield formula and an explanation of its components.

$$\text{Gross Yield Per Acre (bu/acre)} = \frac{A \times B \times C}{D}$$

Where: A = Sample weight of oats in grams.

B = 1.0-(% moisture in grain/100%)

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C = Conversion factor

$$= \frac{43560 \text{ sq. ft./ac}}{(32 \text{ lbs/bu} \times 453.6 \text{ gms/lb} \times \text{number of rows harvested} \times 1.8 \text{ ft.} \times \text{average row spacing (ft.)})}$$

D = .850 = The standard moisture content conversion factor of oats per bushel (1.0-(15%/100%))

After calculation of the gross yield, the statewide Harvest Loss will be subtracted from the gross yield to obtain a net yield per sample. Harvest Loss is the difference between actual grain yield and what is hauled from a field. The net yield determinations for each sample will be averaged together to obtain a yield figure for the entire field being evaluated for proof of productivity.

## SORGHUM SAMPLING TECHNIQUE

Step 1 - Mark the starting corner of the field to be sampled with a large stake and attach a ribbon or flag to it.

Step 2 - Pace off predetermined sample point coordinates in a sequential fashion to determine individual sample locations.

Step 3 - After taking the last of the required paces to the first sampling point, place a stake immediately adjacent to the closest sorghum plant to the toe of your shoe. Measure ten (10) feet of the plant row starting at the first stake and placing a second stake at the ten (10) foot mark. Mark the first five (5) heads and the last five (5) heads with rubber bands. These heads will be used for moisture determination. One sample unit will equal one (1) ten (10) foot sorghum row section.

Step 4 - Clip all grain heads in Row 1 within the ten (10) foot segment of the sample unit.

Step 5 - Weigh the clipped grain heads using a balance scale - obtain field weight to the nearest tenth (0.1) of a pound. Place any grain heads collected for moisture determination into sealed polyethylene bags. Mark the bags with the appropriate field number (as supplied by the mine operator), and sample identification number.

Step 6 - Measure on a perpendicular line from the plants in row one (1) to the plants in row five (5). Divide this measured distance by four (4) to determine the average row width.

Step 7 - Repeat Steps 3 through 6 for each additional random sampling point

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coordinate.

Step 8 - Send or deliver to the Illinois Department of Agriculture any grain sample collected for moisture content analysis. (Note: If any single sample requires more than one bag, additional bags should be identified sequentially such as 1A, 1B, 1C.)

The following method will be used for determination of gross yield of sorghum samples. Gross yield is determined by deducting the adjustment for moisture content of the threshed grain from the harvest weight. Moisture content of the grain samples will be made by lab analysis.

Gross Yield = Harvest Weight adjusted for moisture content

Included below for reference is the Gross Yield formula and an explanation of its components.

$$\text{Gross Yield (bu/ac)} = \frac{(A \times B \times C) \div D}{(E \times F)}$$

Where: A = Field weight of grain heads of sorghum from ten (10) feet of row x 2 (2 rows x 10 feet)

B = Weight of threshold grain at time of moisture test

C = Percent moisture in grain corrected to 13.0%

$$= 1.0 - \left[ \frac{\% \text{ moisture in grain}}{100\%} \right] \times .870$$

D = Weight of grain head and seeds used for moisture determination

E = Row Factor

$$28" = .001070$$

$$30" = .001148$$

$$36" = .001377$$

$$38" = .001455$$

$$40" = .001529$$

F = 56 lbs (weight of standard bushel of sorghum)

and .870 = The standard moisture content conversion factor of sorghum per bushel (1.0 - .130)

After calculation of the gross yield, the statewide Harvest Loss will be subtracted from the gross yield to obtain a net yield per sample. Harvest Loss is the difference between actual grain yield and what is hauled from a field. The net yield determinations for each sample will be averaged together to

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obtain a yield figure for the entire field being evaluated for proof of productivity.

## MIXED HAY SAMPLING TECHNIQUE

- Step 1 - Mark the starting corner of the field to be sampled with a large stake and attach a ribbon or flag to it.
- Step 2 - Pace off predetermined sample point coordinates in a sequential fashion to determine individual sample locations.

Step 3 - After taking the last of the required paces to the first sampling point, lay down a sampling frame perpendicular to the toe of your shoe, where applicable, crossing crop rows at a right angle. Mark the two ends of the sampling frame with the stakes just inside the 3 feet sampling lines. Continue to lay out the sample area in the direction of travel from where the last pace was counted. Rotate the sampling frame so that it is perpendicular to one corner of the stake (previously marked) and at a right angle to the original frame position. Repeat this procedure to lay out the other two sides of the sampling square using the opposite corner of the original frame position to locate the other two sides. In all cases, the layout of the sample area shall be consistent for each randomly identified sample point.

Step 4 - Clip all hay stalks from within the square outlined by the sampling frame. The hay stalks should be uniformly clipped to an approximate height of two (2) inches above ground level.

Step 5 - Quarter the collected sample and seal in a suitable poly bag sample container. Mark the sample container with the appropriate field number (as supplied by the mine operator), and sample identification number. Secure the sample container to prevent any sample loss. (Note: It is important when sampling hay that collected samples be chilled and transported in a container capable of sustaining the chilled condition. Hay deteriorates when allowed to heat up.)

Step 6 - Repeat Steps 3 and 4 for each additional random sampling point coordinate.

Step 7 - Send or deliver to the Illinois Department of Agriculture any hay sample collected for moisture analysis. (Note: If any single sample requires more than one bag, additional bags should be identified sequentially such as 1A, 1B, 1C.)

\* If a field moisture meter is used, steps 5 and 7 shall be eliminated and the following explanations for items A and D will be substituted.

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A. Dry matter weight = harvest weight - percent moisture content determined by field moisture tests.

D. Percent moisture in hay at time of harvest determined by field moisture test.

The following method will be used for determination of gross yield of mixed hay samples. Gross yield is determined by deducting the adjustment for moisture content of the mixed hay sample from the harvest weight. Moisture content of mixed hay samples will be determined by lab analysis.

$$\text{Gross Yield} = \text{Harvest weight adjusted for moisture content}$$

$$\text{Gross Yield Per Acre} = \frac{(A \times D)}{(C \times B \times E)}$$

(Tons/Acre)

Where: A = Field weight or harvested weight of mixed hay in pounds

B = Plot size (sq. ft./43560 sq. ft./ac.) or number of acres

C = Conversion factor from lbs. to tons (i.e., 1 ton = 2000 pounds)

D = Dry matter content of harvested hay (100% - % moisture in hay)

E = Dry matter content of hay standard = 100% - 15%

The net yield determinations for each sample will be averaged together to obtain a yield figure for the entire field being evaluated for proof of productivity. The annual harvest will be determined by the cumulative yields of each cutting.

## HAY SAMPLING

## BALED OR GREEN CHOPPED HAY

To be assured that sampling results are reliable, it is necessary to obtain accurate bale counts, accurate weights, and accurate moisture readings. Reading and following the instructions for the equipment that has been provided will for the most part insure correct interpretation of weights and moisture meter results. Acreage figures will be developed and verified by the Illinois Department of Agriculture. Verification of bale count is an area to be further elaborated on.

Depending on the use of the hay, an enumerator may be dealing with large round bales, small square bales or wagons of green chopped hay. In the case of large round bales, the enumerator need not be present during the baling of all of the product. If the operator provides a bale count for each field, the enumerator must provide a verification of the count. This can be done by physically visiting the field during baling and taking a bale count to compare with the count that will be provided by the operator. The verification of count can also be done by visiting the field and recording the counter number prior to



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baling, and then again reading the meter when each field is finished. It is not necessary to observe all of the baling. If an operator has multiple fields to pull weight samples from he may wish to do this on a single day to make his operation run in a more efficient manner. This is perfectly acceptable. The enumerator may identify sample bales just prior to weighing, and perform moisture and temperature tests at that time. Random verification of bale counts will discourage any impropriety on the part of the operator, and eliminate the need for constant observation.

This procedure will also work well for weighing and counting wagons of green chopped hay. The enumerator should perform random verification of truck weights and collect weight tickets for each field.

The operator should be reminded to provide the exact number of trucks coming from each field and the weight of each truck. Random verification of truck counts for individual fields is also encouraged. This will make a good comparison for the information received from the operator.

## CORN

Size of Bond Release Field	Minimum Number of Samples
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4 - 39 acres	8
40 - 279 acres	12
280 - 639 acres	16
640 acres or more	28

## SOYBEANS

Size of Bond Release Field	Minimum Number of Samples
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4 - 39 acres	10
40 - 279 acres	12
280 - 639 acres	16
640 acres or more	26

## WHEAT - OATS

Size of Bond Release Field	Minimum Number of Samples
-------------------------------	------------------------------

4 - 39 acres	6
40 - 279 acres	8
280 - 639 acres	10
640 acres or more	14

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## SORGHUM

Size of Bond Release Field	Minimum Number of Samples
-------------------------------	------------------------------

4 - 39 acres	10
40 - 279 acres	16
280 - 639 acres	28
640 acres or more	40

## MIXED HAY

Size of Bond Release Field	Minimum Number of Samples
-------------------------------	------------------------------

4 - 39 acres	5
40 - 279 acres	10
280 - 639 acres	20
640 acres or more	sample for each additional 35 acres

## SPECIAL PROBLEMS IN SAMPLE LAYOUT

1. It is possible for a sample grid coordinate to fall on areas within the field boundary which were not planted to crops (i.e., grass waterway, roadway, etc.) When this situation occurs, stop the pace count at the start of such an area and resume the count on the other side of the area.
2. If a blank area is crossed which was planted to crops, the pace count should be continued through this area. Usually such areas are due to poor germination, insects, standing water, etc. (if the sample area falls in this planted area which is blank, then a zero yield is established).
3. If a sample coordinate falls partly in a blank area which was not planted for harvest, move the sample area ahead until it is wholly on acreage planted to the crop being sampled. The sample point should begin one pace from the edge of the blank area.

(Source: Amended at 19 Ill. Reg. \_\_\_\_\_, effective \_\_\_\_\_)

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1) Heading of the Part: Permit Applications--Minimum Requirements for Legal, Financial, Compliance, and Related Information

2) Code Citation: 62 Ill. Adm. Code 1778

3) Section Number: Proposed Action:

1778.15 Amend

4) Statutory Authority: Implementing and authorized by the Surface Coal Mining Land Conservation and Reclamation Act (Ill. Rev. Stat. 1991, ch. 96 1/2, pars. 7901.01 et seq.) [225 ILCS 720].

5) A complete description of the subjects and issues involved:

Section 1778.15 sets forth right of entry information requirements for permit applications. Subsections (a) and (e) are proposed to be amended in order to eliminate the burdensome requirement for underground coal mine operators to document their legal right to enter and mine for underground mining areas. Right of entry information would still be required for surface facilities at underground mines. Since there is no such requirement in corresponding federal regulations, the current regulation may be construed to violate the "no more stringent than" clause found in Section 1.02(c) of the Surface Coal Mining Land Conservation and Reclamation Act [225 ILCS 720/1.02(c)]. New subsection (f) is proposed to be added and would require underground mine operators to certify that necessary mining rights will be obtained prior to mining.

6) Will this proposed rule replace an emergency rule currently in effect? No

7) Does this rulemaking contain an automatic repeal date? No

8) Do these proposed amendments contain incorporations by reference? No

9) Are there any other amendments pending on this Part? No

10) Statement of Statewide Policy Objectives: The proposed amendments will have no impacts upon local units of government.

11) Time, Place, and Manner in which interested persons may comment on this proposed rulemaking:

Written comments may be submitted within 45 days of the publication of this notice to:

Karen Jacobs, Legal Counsel  
Illinois Department of Mines and Minerals  
300 West Jefferson, Suite 300

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Springfield, IL 62791-0137  
(217) 782-6791

Commentors must provide a name and address. Comments must be directed to a specific subsection and must be made on a separate sheet of 8 1/2 x 11 inch paper.

Comments may include data, views, arguments or any documents relevant to the proposals noted above in the Description of Subjects and Issues involved. All comments are due at the above address no later than 45 days after the publication of this notice. Comments received thereafter will not be considered in this rulemaking.

12) Initial Regulatory Flexibility Analysis:

A) Types of small businesses affected: This rulemaking will not affect small businesses.

B) Reporting, bookkeeping or other procedures required for compliance: None

C) Types of professional skills necessary for compliance: None

13) State reason(s) for the rulemaking if it was not included in either of the two (2) most recent regulatory agendas:

This rulemaking was included in the regulatory agenda published at 19 Ill. Reg. 659-684 (January 20, 1995).

The full text of the Proposed Amendments begins on the next page.

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## NOTICE OF PROPOSED AMENDMENTS

## TITLE 62: MINING

## CHAPTER I: DEPARTMENT OF MINES AND MINERALS

## PART 1778

## PERMIT APPLICATIONS--MINIMUM REQUIREMENTS

## FOR LEGAL, FINANCIAL, COMPLIANCE, AND RELATED INFORMATION

## Section

1778.4 Responsibility (Repealed)

1778.11 Applicability (Repealed)

1778.13 Identification of Interests

1778.14 Violation Information

1778.15 Right of Entry Information

1778.16 Relationship to Areas Designated Unsuitable for Mining

1778.17 Permit Term

1778.18 Insurance

1778.20 Identification of Location of Public Office for Filing of Application (Repealed)

1778.21 Proof of Publication

1778.22 Facilities or Structures Used in Common

**AUTHORITY:** Implementing and authorized by the Surface Coal Mining Land Conservation and Reclamation Act (Ill. Rev. Stat. 1991, ch. 96 1/2, pars. 7901.01 et seq.) [225 ICS 720].

**SOURCE:** Adopted at 4 Ill. Reg. 37, p. 1, effective June 1, 1982; amended at 6 Ill. Reg. 1, effective June 1, 1982; codified at 8 Ill. Reg. 9348; amended at 11 Ill. Reg. 8368, effective July 1, 1987; amended at 14 Ill. Reg. 11873, effective January 1, 1991; amended at 15 Ill. Reg. 17265, effective January 1, 1992; amended at 17 Ill. Reg. 11027, effective July 1, 1993; amended at 19 Ill. Reg. \_\_\_\_\_, effective \_\_\_\_\_.

## Section 1778.15 Right of Entry Information

- a) An application shall contain a description of the documents upon which the applicant bases his or her legal right to enter and begin surface coal mining and reclamation operations in the permit area ~~and in the shadow-area~~ and shall state whether that right is the subject of pending litigation; ~~however, no such information will be required for surface estates which overlie underground mine workings and will not be disturbed by surface facilities.~~ The description shall identify those documents by type and date of execution, identify the specific lands to which the document pertains, and explain the legal rights claimed by the applicant; ~~including the right to subside within the shadow-area.~~ The Department will not be liable in any way if the claimed right to enter and begin surface mining activities has been, or is later, adjudicated invalid by a court of competent jurisdiction. Documents shall not be submitted to the Department in lieu of the

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description identified in this subsection; however, the Department may subsequently require the applicant to provide such information during the permitting process.

- b) For surface mining activities where the private mineral estate to be mined has been severed from the private surface estate, the application shall also provide for lands within the permit area:

- 1) A copy of the written consent of the surface owner to the extraction of coal by surface mining methods;
- 2) A copy of the conveyance that expressly grants or reserves the right to extract the coal by surface mining methods; or
- 3) If the conveyance does not expressly grant the right to extract the coal by surface mining methods, documentation that under the applicable State law, the applicant has the legal authority to extract the coal by those methods.

- c) Nothing in this Section shall be construed to afford the Department the authority to adjudicate property title disputes.

- d) In satisfaction of the requirements of this Section the Department may accept, as part of a permit application, a statement, notarized and attested to the truth of the statement, signed by an attorney licensed to practice law in the State of Illinois, the applicant has the legal right to enter and commence the surface coal mining and reclamation operations proposed in the application. The statement shall identify the documents upon which it is based by type and date of execution, identify the specific lands to which each document pertains, and explain the legal rights claimed by the applicant. If subsection (b) applies, such statement shall also include copies of the documents as required in subsections (b)(1) through (3).

- e) An application in which the applicant claims to have valid existing rights to conduct surface coal mining operations, including planned subsidence operations, in with an area where mining is prohibited or limited under 62 Ill. Adm. Code 1761.11 shall contain the necessary information and meet the requirements of Section 1778.16 and 62 Ill. Adm. Code 1761.12.

- f) All applications for shadow area shall contain a notarized statement by a responsible official of the applicant attesting that all necessary mining rights, including the right to subside, if applicable, have been or will be obtained prior to mining.

(Source: Amended at 19 Ill. Reg. \_\_\_\_\_, effective \_\_\_\_\_)



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1) Heading of the Part: Requirements for Coal Exploration2) Code Citation: 62 Ill. Adm. Code 17723) Section Number: Proposed Action:

1772.11

Amend

1772.12

Amend

4) Statutory Authority: Implemented and authorized by the Surface Coal Mining Land Conservation and Reclamation Act (Ill. Rev. Stat. 1991, ch. 96 1/2, pars. 7901.01 et seq.) [225 ILCS 720].

5) Complete description of the subjects and issues involved:

Part 1772 sets forth requirements for coal exploration. Section 1772.11(b)(5) is proposed to be amended in order to clarify that specific forms are required to be submitted with a coal exploration notice only if such forms are required by the Department's Oil and Gas Division. The revision is necessary because certain activities considered to be coal exploration by the Department do not require the submittal of forms to the Oil and Gas Division.

The proposed revision to Section 1772.12(d)(2) corrects the wording of the regulation and makes it consistent with its federal counterpart. Subsection (d)(2)(C) is being amended for clarity.

6) Will this proposed rule replace an emergency rule currently in effect?  
No

7) Does this rulemaking contain an automatic repeal date? No

8) Do these proposed amendments contain incorporations by reference? No

9) Are there any other amendments pending on this Part? No

10) Statement of Statewide Policy Objectives: The proposed amendments will have no impacts upon local units of government.

11) Time, Place, and Manner in which interested persons may comment on this proposed rulemaking: Written comments may be submitted within 45 days of the publication of this notice to:

Karen Jacobs, Legal Counsel  
Illinois Department of Mines and Minerals  
300 West Jefferson, Suite 300  
Springfield, IL 62791-0137  
(217) 782-6791

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Commenters must provide a name and address. Comments must be directed to a specific subsection and must be made on a separate sheet of 8 1/2 x 11 inch paper.

Comments may include data, views, arguments or any documents relevant to the proposals noted above in the Description of Subjects and Issues involved. All comments are due at the above address no later than 45 days after the publication of this notice. Comments received thereafter will not be considered in this rulemaking.

12) Initial Regulatory Flexibility Analysis:

A) Types of small businesses affected: This rulemaking will not affect small businesses.

B) Reporting, bookkeeping or other procedures required for compliance:  
None

C) Types of professional skills necessary for compliance: None

13) State reason(s) for the rulemaking if it was not included in either of the two (2) most recent regulatory agendas:

This rulemaking was included in the regulatory agenda published at 19 Ill. Reg. 659-684 (January 20, 1995).

The full text of the Proposed Amendments begins on the next page.

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## TITLE 62: MINING

## CHAPTER I: DEPARTMENT OF MINES AND MINERALS

## PART 1772

## REQUIREMENTS FOR COAL EXPLORATION

## Section

## 1772.1 Scope and Purpose

1772.11 Notice Requirements for Exploration Removing 250 Tons of Coal or Less  
 1772.12 Permit Requirements for Exploration Removing More Than 250 Tons of Coal

## 1772.13 Coal Exploration Compliance Duties

## 1772.14 Requirements for Commercial Use or Sale

## 1772.15 Public Availability of Information

AUTHORITY: Implementing and authorized by Sections 5.01, 5.02, 5.03 and 9.01 of the Surface Coal Mining Land Conservation and Reclamation Act (Ill. Rev. Stat. 1991, ch. 96 1/2, pars. 7905.01, 7905.02, 7905.03 and 7909.01) [225 ILCS 720/5.01, 5.02, 5.03 and 9.01].

SOURCE: Adopted at 11 Ill. Reg. 8385, effective July 1, 1987; amended at 14 Ill. Reg. 11880, effective January 1, 1991; amended at 15 Ill. Reg. 17269, effective January 1, 1992; amended at 17 Ill. Reg. 11058, effective July 1, 1993; amended at 19 Ill. Reg. \_\_\_\_\_, effective \_\_\_\_\_.

## Section 1772.11 Notice Requirements for Exploration Removing 250 Tons of Coal or Less

a) Any person who intends to conduct coal exploration operations outside the permit area during which less than two hundred and fifty (250) tons of coal will be removed shall prior to conducting the exploration, file with the Illinois Department of Mines and Minerals (Department) a written notice of intention to explore.

b) The notice shall include:

- 1) The name, address, and telephone number of the person seeking to explore;
- 2) The name, address, and telephone number of the person's representative who will be present at, and responsible for, conducting the exploration activities;
- 3) A statement of the period of intended exploration, and a precise narrative or other specific description of the location of the intended exploration which identifies which Sections will be affected;
- 4) A description of the method of exploration to be used and the practices that will be followed to protect the environment and to reclaim the area from adverse impacts of the exploration activities in accordance with the applicable requirements of 62

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## Ill. Adm. Code 1815:

5) In addition, the notice shall include a copy of a fully executed "Application for Test Hole Permit" (Form OG-7) or "Test Hole Record and Plugging Affidavit" (Form OG-8) if required by the Oil and Gas Division of the Department for the proposed activities. Forms are available from the Oil and Gas Division of the Department which will supervise closure in accordance with 62 Ill. Adm. Code 240.

c) A notice of intention to explore is not an application for a permit.

(Source: Amended at 19 Ill. Reg. \_\_\_\_\_, effective \_\_\_\_\_.)

## Section 1772.12 Permit Requirements for Exploration Removing More Than 250 Tons of Coal

a) Any person who intends to conduct coal exploration outside a permit area during which more than two hundred and fifty (250) tons of coal will be removed or which will take place on lands designated as unsuitable for surface mining under 62 Ill. Adm. Code 1761 through 1764 shall before conducting the exploration submit an application and obtain written approval from the Department in an exploration permit.

b) Each application for an exploration permit shall contain, at a minimum, the following information:

- 1) The name, address, and telephone number of the applicant;
- 2) The name, address, and telephone number of the applicant's representative who will be present at, and be responsible for, conducting the exploration;
- 3) A narrative and map describing the proposed exploration area;
- 4) A narrative description of the methods and equipment to be used to conduct the exploration and reclamation;
- 5) An estimated time table for conducting and completing each phase of the exploration and reclamation;
- 6) The estimated amount of coal to be removed and a description of the methods to be used to determine the amounts;
- 7) A statement of why extraction of more than two hundred and fifty (250) tons of coal is necessary for exploration;
- 8) A description of:
  - A) Cultural or historical resources listed on the National Register of Historic Places,
  - B) Cultural or historical resources known to be eligible for listing on the National Register of Historic Places,
  - C) Known archeological resources located within the proposed exploration area, and
  - D) Any other information which the Department may require regarding known or unknown historic or archeological resources, based upon consultation with the Illinois State Historic Preservation Agency;

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- 9) A description of any endangered or threatened species listed pursuant to the Endangered Species Act of 1973 (16 U.S.C. 1531 et seq.) identified within the proposed exploration area;
  - 10) A description of the measures to be used to comply with the applicable requirements of 62 Ill. Adm. Code 1815;
  - 11) The name and address of the owner of record of the surface land and of the subsurface mineral estate of the area to be explored;
  - 12) A map or maps at a scale of 1:24,000 or larger, showing the areas of the proposed exploration and reclamation. The map shall specifically show existing roads, occupied dwellings, topographic and drainage features, bodies of surface water, and pipelines; proposed location of trenches, roads, and other access routes and structures to be constructed; the location of proposed land excavations; the location of exploration holes or other drill holes or underground openings; location of excavated earth or waste-material disposal areas; and the location of critical habitats of any endangered or threatened species listed pursuant to the Endangered Species Act of 1973 (16 U.S.C. 1531 et seq.); and
  - 13) If the surface is owned by a person other than the applicant, a description of the basis upon which the applicant claims the right to enter that land for the purpose of conducting exploration and reclamation.
- c) Public notice of the application and opportunity to comment shall be provided as follows:
- 1) Within five (5) days, the applicant shall provide public notice of the filing of an administratively complete application with the Department in a newspaper of general circulation which is on the Department's list of approved newspapers in the county of the proposed exploration area;
  - 2) The public notice shall state the name and address of the person seeking approval, the date of filing of the application, the address of the Department where written comments on the application may be submitted, the closing date of the comment period, and a description of the general area of exploration. In no case shall the public comment period be less than thirty (30) days;
  - 3) Any person with an interest which is or may be adversely affected shall have the right to file written comments on the application within the specified public comment period.
- d) Decision on an application for exploration removing more than two hundred and fifty (250) tons of coal.
- 1) The Department shall act upon an administratively complete application for a coal exploration permit and any written comments within sixty (60) days after the close of the public comment period. The approval of a coal exploration permit may be based only on a complete and accurate application.
  - 2) The Department shall approve a complete and accurate application

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for a coal exploration ~~permit~~ operation filed in accordance with this Part, if it finds, in writing, that the applicant has demonstrated that the exploration and reclamation described in the application will:

- A) Be conducted in accordance with the Surface Mining Control and Reclamation Act of 1977 (30 U.S.C. 1201 et seq.) (Act), 62 Ill. Adm. Code 1815, this Part and the regulatory program;
  - B) Not jeopardize the continued existence of an endangered or threatened species listed pursuant to Section 4 of the Endangered Species Act of 1973 (16 U.S.C. 1533) or result in the destruction or adverse modification of critical habitat of those species as defined in Section 3 of the Endangered Species Act of 1973 (16 U.S.C. 1532); and
  - C) Not adversely affect any cultural or historic resources listed on the National Register of Historic Places, pursuant to the National Historic Preservation Act, as amended (16 U.S.C. 470 et seq., 1976, Supp. V), unless the proposed exploration has been approved by the Department and the ~~agency--with--jurisdiction--over--State-Historic-Preservation~~ Illinois Historic Preservation Agency.
- 3) Terms of approval. Each approval issued by the Department shall contain conditions necessary to ensure that the exploration and reclamation will be conducted in compliance with the Act, this Part, 62 Ill. Adm. Code 1815, and the regulatory program.
- e) Notice and review.
- 1) The Department shall notify the applicant, the appropriate local government officials, and other commentators on the application in writing, of its decision on the application. If the application is disapproved, the notice to the applicant shall include a statement of the reason for disapproval. Public notice of the decision on each application shall be posted by the Department at a public office in the vicinity of the exploration operations.
  - 2) Any person with an interest which is or may be adversely affected by a decision of the Department pursuant to subsection (e)(1) above, shall have the opportunity for administrative and judicial review as set forth in 62 Ill. Adm. Code 1847.3.

(Source: Amended at 19 Ill. Reg. \_\_\_\_\_, effective \_\_\_\_\_)



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1) Heading of the Part: Requirements for Permits and Permit Processing

2) Code Citation: 62 Ill. Adm. Code 1773

3) Section Number: Proposed Action:

1773.15	Amend
1773.20	Amend
1773.21	Amend
1773.22	New Section
1773.23	New Section
1773.24	New Section
1773.25	New Section

4) Statutory Authority: Implementing and authorized by the Surface Coal Mining Land Conservation and Reclamation Act (Ill. Rev. Stat. 1991, ch. 96 1/2, pars. 7901.01 et seq.) [225 ILCS 720].

5) A complete description of the subjects and issues involved: Part 1773 contains requirements for permits and permit processing. Section 1773.15(a)(1) is proposed to be revised in response to the Office of Surface Mining Reclamation and Enforcement, which indicated that the change was necessary in order to make the regulation consistent with its federal counterpart. The remainder of the revisions to this Part, and the proposed addition of Sections 1773.22 through 1773.25, are in accordance with and prompted by federal counterpart rules at 59 Fed. Reg. 54306 (October 28, 1994) concerning the applicant violator system and standards and procedures for ownership and control determinations.

6) Will this proposed rule replace an emergency rule currently in effect? No

7) Does this rulemaking contain an automatic repeal date? No

8) Do these proposed amendments contain incorporations by reference? No

9) Are there any other amendments pending on this Part? No

10) Statement of Statewide Policy Objectives: The proposed amendments will have no impacts upon local units of government.

11) Time, Place, and Manner in which interested persons may comment on this proposed rulemaking: Written comments may be submitted within 45 days of the publication of this notice to:

Karen Jacobs, Legal Counsel  
Illinois Department of Mines and Minerals  
300 West Jefferson, Suite 300  
Springfield, IL 62791-0137

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(217)782-6791

Commenters must provide a name and address. Comments must be directed to a specific subsection and must be made on a separate sheet of 8 1/2 x 11 inch paper.

Comments may include data, views, arguments or any documents relevant to the proposals noted above in the Description of Subjects and Issues involved. All comments are due at the above address no later than 45 days after the publication of this notice. Comments received thereafter will not be considered in this rulemaking.

12) Initial Regulatory Flexibility Analysis:

A) Types of small businesses affected: This rulemaking will not affect small businesses.

B) Reporting, bookkeeping or other procedures required for compliance: None

C) Types of professional skills necessary for compliance: None

13) State reason(s) for the rulemaking if it was not included in either of the two (2) most recent regulatory agendas:

This rulemaking was included in the regulatory agenda published at 19 Ill. Reg. 659-684 (January 20, 1995).

The full text of the Proposed Amendments begins on the next page.

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## TITLE 62: MINING

## CHAPTER I: DEPARTMENT OF MINES AND MINERALS

## PART 1773

## REQUIREMENTS FOR PERMITS AND PERMIT PROCESSING

Section	Scope and Purpose
1773.1	Definitions
1773.5	Requirements to Obtain Permits
1773.11	Regulatory Coordination with Requirements under Other Laws
1773.12	Public Participation in Permit Processing
1773.13	Opportunity for Public Hearing
1773.14	Review of Permit Applications
1773.15	Permit Conditions
1773.17	Permit Issuance and Right of Renewal
1773.19	Improviently Issued Permits: General Procedures
1773.20	Improviently Issued Permits: Rescission Procedures
1773.21	Verification of Ownership or Control Application Information
1773.22	Review of Ownership or Control and Violation Information
1773.23	Procedures for Challenging Ownership or Control Shown in the Applicant Violator System
1773.24	Standards for Challenging Ownership or Control Links and the Status of Violations
1773.25	

**AUTHORITY:** Implementing and authorized by the Surface Coal Mining Land Conservation and Reclamation Act (Ill. Rev. Stat. 1991, ch. 96 1/2, pars. 7901.01 et seq.) [225 ILCS 720].

**SOURCE:** Adopted at 11 Ill. Reg. 8395, effective July 1, 1987; amended at 14 Ill. Reg. 11886, effective January 1, 1991; amended at 15 Ill. Reg. 17274, effective January 1, 1992; amended at 15 Ill. Reg. 17998, effective January 1, 1992; amended at 17 Ill. Reg. 11063, effective July 1, 1993; amended at 19 Ill. Reg. \_\_\_\_\_, effective \_\_\_\_\_.

## Section 1773.15 Review of Permit Applications

- a) General.
- 1) The Department shall review the application for a permit, revision, or renewal; written comments and objections submitted; and records of any informal conference or hearing held on the application and issue a written decision, in accordance with Section 1773.19, either granting, requiring modification of, or denying the application. If an informal conference a public hearing is held under Section 1773.13(c) 1773.14, the decision shall be made within sixty (60) days of the close of the conference public hearing, unless a later time is necessary to provide an opportunity for a hearing under subsection (b)(3)

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below.

- 2) The applicant for a permit or revision of a permit shall have the burden of establishing that his application is in compliance with all the requirements of the regulatory program.

## b) Review of violations.

- 1) Based on available information concerning Federal and State failure to abate cessation orders as defined in 62 Ill. Adm. Code 1843.11(b) or under the counterpart rule of another state regulatory authority, unabated Federal and State imminent harm cessation orders as defined in 62 Ill. Adm. Code 1843.11(a) or under the counterpart rule of another state regulatory authority, delinquent civil penalties issued pursuant to Section 9-04 of the State Act and Section 518 of the Federal Act or pursuant to the counterpart provision of another state regulatory program, bond forfeitures where violations upon which the forfeitures were based have not been corrected, delinquent abandoned mine reclamation fees, and unabated violations of Federal and State laws, rules, and regulations pertaining to air or water environmental protection incurred in connection with any surface coal mining operation, the Department shall not issue the permit if any surface coal mining and reclamation operation owned or controlled by either the applicant or by any person who owns or controls the applicant is currently in violation of the State Act, Federal Act or any other law, rule or regulation referred to in this subsection, in the absence of a failure to abate cessation order, the Department may presume that a notice of violation issued pursuant to 62 Ill. Adm. Code 1843.12 or under Federal or State program has been or is being corrected, to the satisfaction of the agency with jurisdiction over the violation except where evidence to the contrary is set forth in the permit application or where the notice of violation is issued for nonpayment of abandoned mine reclamation fees or civil penalties, if a current violation exists, the Department shall require the applicant or person who owns or controls the applicant, before the issuance of the permit, to either: Based on a review of all reasonably available information concerning violation notices and ownership or control links involving the applicant, including information obtained pursuant to 62 Ill. Adm. Code 1773.22, 1773.23, 1778.13 and 1778.14, the Department shall not issue the permit if any surface coal mining and reclamation operation owned or controlled by either the applicant or by any person who owns or controls the applicant is currently in violation of the State Act, Federal Act, any State or Federal regulation promulgated pursuant thereto, a State program, or any Federal or State law or regulation pertaining to air or water environmental protection. In the absence of a failure to abate cessation order, the Department may presume that a notice of violation issued pursuant to 62 Ill. Adm. Code 1843.12 or under a Federal or State program

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is being corrected to the satisfaction of the agency with jurisdiction over the violation where the abatement period for such notice of violation has not yet expired and when, as part of the violation information provided pursuant to 62 Ill. Adm. Code 1778.14, the applicant has provided certification that such violation is in the process of being so corrected. Such presumption shall not apply where evidence to the contrary is set forth in the permit application, or where the notice of violation is issued for nonpayment of abandoned mine land reclamation fees or civil penalties. If a current violation exists, the Department shall require the applicant or person who owns or controls the applicant, before the issuance of the permit, to either:

- A) Submit to the Department proof that the current violation has been or is in the process of being corrected to the satisfaction of the agency that has jurisdiction over the violation; or
- B) Establish for the Department that the applicant, or any person owned or controlled by either the applicant or any person who owns or controls the applicant, has filed and is presently pursuing, in good faith, a direct administrative or judicial appeal to contest the validity of the current violation. If the circuit or district court reviewing the violation, pursuant to 62 Ill. Adm. Code 1847.4(p), 30 CFR 775.13 or in accordance with the procedures established by other state regulatory authorities, either denies a stay applied for in the appeal or affirms the violation, then the applicant shall submit the proof required under subsection (b)(1)(A) above within thirty (30) days of the court's decision.

2) Any permit that is issued on the basis of proof submitted under subsection (b)(1)(A) above that a violation is in the process of being corrected, or pending the outcome of an appeal described in subsection (b)(1)(B) above, shall be conditionally issued. Any permit that is issued on the basis of a presumption supported by certification under 62 Ill. Adm. Code 1778.14 that a violation is in the process of being corrected, on the basis of proof submitted under subsection (b)(1)(A) of this Section that a violation is in the process of being corrected, or pending the outcome of an appeal described in subsection (b)(1)(B) of this Section, shall be conditionally issued.

- 3) If the Department makes a finding that the applicant, anyone who owns or controls the applicant, or the operator specified in the application, controls or has controlled surface coal mining and reclamation operations with a demonstrated pattern of willful violations of the Federal or State Acts of such nature and duration and with such resulting irreparable damage to the environment as to indicate an intent not to comply with the

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Federal or State Acts, the application shall be denied. Before such a finding becomes final, the applicant or operator shall be afforded an opportunity for an adjudicatory hearing on the determination as provided for in 62 Ill. Adm. Code 1847.3.

- c) Written findings for permit application approval.
  - No permit application or application for a significant revision of a permit shall be approved unless the application affirmatively demonstrates and the Department finds, in writing, on the basis of information set forth in the application or from information otherwise available that is documented in the approval, the following:

- 1) The application is complete and accurate and the applicant has complied with all requirements of the Federal Act, State Act and the regulatory program.
- 2) The applicant has demonstrated that reclamation as required by the Federal Act, State Act and the regulatory program can be accomplished under the reclamation plan contained in the permit application.
- 3) The proposed permit area or the proposed shadow area for a planned subsidence operation is:
  - A) Not within an area under study or administrative proceedings under a petition, filed pursuant to 62 Ill. Adm. Code 1764, to have an area designated as unsuitable for surface coal mining operations, unless the applicant demonstrates that before January 4, 1977, he has made substantial legal and financial commitments in relation to the operation covered by the permit application; or
  - B) Not within an area designated as unsuitable for mining pursuant to 62 Ill. Adm. Code 1762 and 1764 or subject to the prohibitions or limitations of 62 Ill. Adm. Code 1761.11 and 1761.12.

- 4) For mining operations where the private mineral estate to be mined has been severed from the private surface estate, the applicant has submitted to the Department the documentation required under 62 Ill. Adm. Code 1778.15(b).

5) The Department has made an assessment of the probable cumulative impacts of all anticipated coal mining on the hydrologic balance in the cumulative impact area, in accordance with 62 Ill. Adm. Code 1780 and 1784 and has determined that the proposed operation has been designed to prevent material damage to the hydrologic balance outside the permit area.

- 6) The applicant has demonstrated that any existing structure will comply with 62 Ill. Adm. Code 1700.11(d).
- 7) The applicant has paid all reclamation fees from previous and existing operations as required by 30 CFR 870.
- 8) The applicant has satisfied the applicable requirements of 62 Ill. Adm. Code 1785.
- 9) The applicant has, if applicable, satisfied the requirements for approval of a long-term, intensive agricultural post-mining land



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use, in accordance with the requirements of 62 Ill. Adm. Code 1816.111(d) and 1817.111(d).

- 10) The operation would not affect the continued existence of endangered or threatened species or result in destruction or adverse modification of their critical habitats, as determined under the Endangered Species Act of 1973 (16 U.S.C. 1531 et seq.).

- 11) For a proposed remaining operation where the applicant intends to reclaim in accordance with the requirements of 62 Ill. Adm. Code 1816.106 or 1817.106, the site of the operation is a previously mined area as defined in 62 Ill. Adm. Code 1701 Appendix A.

- 12) The Department has taken into account the effect of the proposed permitting action on properties listed on and eligible for listing on the National Register of Historic Places. This finding may be supported in part by inclusion of appropriate permit conditions or changes in the operation plan protecting historic resources, or a documented decision that the Department has determined that no additional measures are necessary.

- d) Expiration of findings.

Written findings issued by the Department approving a permit application shall expire within one (1) year from the date of issuance if the permit has not been issued based upon the applicant's failure to submit permit fees in accordance with 62 Ill. Adm. Code 1777.17 or a performance bond in accordance with 62 Ill. Adm. Code 1800.11. When written findings expire, the Department will take no further action on the permit application. Should the applicant choose to resume permitting activity for the area in question, a new permit application must be submitted in accordance with the requirements of Section 1773.

- e) Final compliance review.

After an application is approved, but before the permit is issued, the Department shall reconsider its decision to approve the application, based on the compliance review required by subsection (b)(1), in light of any new information submitted under 62 Ill. Adm. Code 1778.13(i) and 1778.14(e).

(Source: Amended at 19 Ill. Reg. \_\_\_\_\_, effective \_\_\_\_\_)

## Section 1773.20 Improvidently Issued Permits: General Procedures

- a) Permit review.

If the Department receives information indicating that it improvidently issued a surface coal mining and reclamation permit, the Department shall review the circumstances under which the permit was issued using a criteria in subsection (b) below. Where the Department finds that the permit was improvidently issued, it shall undertake the remedial measures set forth in subsection (c) below.

- b) Review criteria.

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The Department shall find that a surface coal mining and reclamation permit was improvidently issued if:

- 1) Under the violations review criteria of the regulatory program at the time the permit was issued:

- A) The Department should not have issued the permit because of an unabated violation or a delinquent penalty or fee; or  
B) The permit was issued on the presumption that a notice of violation was in the process of being corrected to the satisfaction of the agency with jurisdiction over the violation, but a cessation order subsequently was issued; and

- 2) The violation, penalty or fee:

- A) Remains unabated or delinquent; and  
B) Is not the subject of a good faith appeal, or of an abatement plan or payment schedule with which the permittee or other person responsible is complying to the satisfaction of the responsible agency; and  
C) Where the permittee was linked to the violation, penalty or fee through ownership or control under the violations review criteria of the regulatory program at the time the permit was issued, an ownership or control link between the permittee and the person responsible for the violation, penalty or fee still exists, or where the link has been severed, the permittee continues to be responsible for the violation, penalty or fee.

- 3) The provisions of Section 1773.25 shall apply when the Department determines:

- A) Whether a violation, penalty or fee existed at the time that it was cited, remains unabated or delinquent, has been corrected, is in the process of being corrected, or is the subject of a good faith appeal; and

- B) Whether any ownership or control link between the permittee and the person responsible for the violation, penalty or fee existed, still exists, or has been severed.

- 4) Under the violations review criteria of the regulatory program at the time the permit was issued:

- A) The Department should not have issued the permit because of an unabated violation or a delinquent penalty or fee; or  
B) The permit was issued on the presumption that a notice of violation was in the process of being corrected to the satisfaction of the agency with jurisdiction over the violation, but a cessation order subsequently was issued; and

- 5) The violation, penalty or fee:

- A) Remains unabated or delinquent; and  
B) Is not the subject of a good faith appeal, or pursuant to 62 Ill. Adm. Code 1847, or in accordance with the procedures in other regulatory jurisdictions or of an abatement plan

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or payment schedule with which the permittee or other person responsible is complying to the satisfaction of the responsible agency; and

- 3) Where the permittee was linked to the violation penalty or fee through ownership or control under the violations review criteria of the regulatory program at the time the permit was issued an ownership or control link between the permittee and the person responsible for the violation penalty or fee still exists or where the link was severed the permittee continues to be responsible for the violation penalty or fee.

## c) Remedial measures.

If the Department finds, under subsection (b) above, that because of an unabated violation or a delinquent penalty or fee a permit was improvidently issued, the Department shall undertake one or more of the following remedial measures:

- 1) Implement, with the cooperation of the permittee or other person responsible, and of the responsible agency, a plan for abatement of the violation or a schedule for payment of the penalty or fee;
- 2) Impose on the permit a condition requiring that in the specified period of time the permittee or other person responsible abate the violation or pay the penalty or fee;
- 3) Suspend the permit until the violation is abated or the penalty or fee is paid; or
- 4) Rescind the permit under Section 1773.21. Rescind the permit.

If the Department decides to rescind the permit, it shall give at least 30 days written notice to the permittee. If the Department decides to rescind the permit, it shall issue a notice in accordance with Section 1773.21. In either case, the permittee shall be given the opportunity to request review of the notice under 62 Ill. Adm. Code 1847.3. The Department's decision shall remain in effect during the pendency of the review, unless temporary relief is granted under 62 Ill. Adm. Code 1847.3(k).

(Source: Amended at 19 Ill. Reg. \_\_\_\_\_, effective \_\_\_\_\_)

## Section 1773.21 Improvidently Issued Permits: Rescission Procedures

If the Department, under Section 1773.20(c)(4), elects to rescind an improvidently issued permit, the Department shall serve on the permittee a notice of proposed suspension and rescission which includes the reasons for the finding of the Department under Section 1773.20(b) and states that:

- a) Automatic suspension and rescission.
 

After a specified period of time not to exceed ninety (90) days the permit automatically will become suspended, and not to exceed ninety (90) days thereafter rescinded, unless within those periods the permittee submits proof, and the Department finds, consistent with the provisions of Section 1773.25, that:

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- 1) The Department's finding under Section 1773.20(b) was erroneous;
- 2) The permittee or other person responsible has abated the violation on which the finding was based, or paid the penalty or fee, to the satisfaction of the responsible agency;
- 3) The violation, penalty or fee is the subject of a good faith appeal, or of an abatement plan or payment schedule with which the permittee or other person responsible is complying to the satisfaction of the responsible agency; or
- 4) Since the finding was made, the permittee has severed any ownership or control link with the person responsible for, and does not continue to be responsible for, the violation, penalty or fee.

- b) Cessation of operations.
 

After permit suspension or rescission, the permittee shall cease all surface coal mining and reclamation operations under the permit, except for violation abatement and for reclamation and other environmental protection measures including, but not limited to, maintenance and monitoring as required by the Department; and.

Right to appeal: The permittee may file a request for an administrative hearing to contest the notice under 62 Ill. Adm. Code 1847.3.

(Source: Amended at 19 Ill. Reg. \_\_\_\_\_, effective \_\_\_\_\_)

## Section 1773.22 Verification of Ownership or Control Application Information

- a) In accordance with Section 1773.15(c)(1), prior to the issuance of a permit, the Department shall review the information in the application provided pursuant to 62 Ill. Adm. Code 1778.13 to determine that such information, including the identification of the operator and all owners and controllers of the operator, is complete and accurate. In making such determination, the Department shall compare the information provided in the application with information from other reasonably available sources, including:
  - 1) Manual data sources within the State, including:
    - A) The Department's inspection and enforcement records; and
    - B) The Secretary of State's corporate or tax records, to the extent they contain information concerning ownership or control links; and
  - 2) Automated data sources, including:
    - A) The Department's own computer systems; and
    - B) the Applicant Violator System.

If it appears from the information provided in the application pursuant to 62 Ill. Adm. Code 1778.13(c) through (d) that none of the persons identified in the application has had any previous mining experience, the Department shall inquire of the applicant and investigate whether any person other than those identified in the



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application will own or control the operation as either an operator or other owner or controller.

- c) If, as a result of the review conducted under subsections (a) and (b) above, the Department identifies any potential omission, inaccuracy, or inconsistency in the ownership or control information provided in the application, it shall, prior to making a final determination with regard to the application, contact the applicant and require that the matter be resolved through submission of an amendment to the application or a satisfactory explanation which includes credible information sufficient to demonstrate that no actual omission, inaccuracy, or inconsistency exists. The Department shall also take action in accordance with the provisions of 62 Ill. Adm. Code 1843.23 where appropriate.

- d) Upon completion of the review conducted under this Section, the Department shall promptly enter into or update all ownership or control information on the Applicant Violator System.

(Source: Added at 19 Ill. Reg. \_\_\_\_\_, effective \_\_\_\_\_)

## Section 1773.23 Review of Ownership or Control and Violation Information

- a) Following the verification of ownership or control information pursuant to Section 1773.22(b), the Department shall review all reasonably available information concerning violation notices and ownership or control links involving the applicant to determine whether the application can be approved under Section 1773.15(b) above. Such information shall include:

- 1) With respect to ownership or control links involving the applicant, all information obtained under 62 Ill. Adm. Code 1773.22 and 1778.13; and

- 2) With respect to violation notices, all information obtained under 62 Ill. Adm. Code 1778.14, information obtained from OSM, including information shown in the AVS, and information from the Department's own records concerning violation notices.

- b) If the review conducted under subsection (a) above discloses any ownership or control link between the applicant and any person cited in a violation notice:

- 1) The Department shall so notify the applicant and shall refer the applicant to the agency with jurisdiction over such violation notice; and

- 2) The Department shall not approve the application unless and until it determines, in accordance with the provisions of Sections 1773.24 and 1773.25:

A) that all ownership or control links between the applicant and any person cited in a violation notice are erroneous or have been rebutted; or

B) that the violation has been corrected, is in the process of

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being corrected, or is the subject of a good faith appeal, within the meaning of Section 1773.15(b).

- c) Following the Department's decision on the application, including unconditional issuance, conditional issuance, or denial of the permit, or following the applicant's withdrawal of the application, the Department shall promptly enter all relevant information related to such decision or withdrawal into the Applicant Violator System.

(Source: Added at 19 Ill. Reg. \_\_\_\_\_, effective \_\_\_\_\_)

## Section 1773.24 Procedures for Challenging Ownership or Control Shown in the Applicant Violator System

- a) Who may challenge.

- 1) Any applicant or other person shown in the Applicant Violator System (AVS) in an ownership or control link to any person may challenge such link in accordance with the provisions of subsections (b) through (d) below and Section 1773.25, unless such applicant or other person is bound by a prior administrative or judicial determination concerning the link.

- 2) Any applicant or other person shown in AVS in an ownership or control link to any person cited in a federal violation notice may challenge the status of the violation covered by such notice in accordance with the provisions of subsections (b) through (d) below and 30 CFR 773.25, unless such applicant or other person is bound by a prior administrative or judicial determination concerning the status of the violation.

- 3) Any applicant or other person shown in AVS in an ownership or control link to any person cited in a state violation notice may challenge the status of the violation covered by such notice in accordance with the State program for the State that issued the violation notice, unless such applicant or other person is bound by a prior administrative or judicial determination concerning the status of the violation.

- b) Any applicant or other person who wishes to challenge an ownership or control link shown in AVS or the status of a federal violation, and who is eligible to do so under the provisions of subsection (a)(1) or (a)(2) above, shall submit a written explanation of the basis for the challenge, along with any relevant evidentiary materials and supporting documents, to OSM, addressed to the Chief of the AVS Office, Office of Surface Mining Reclamation and Enforcement, U.S. Department of the Interior, Washington, D.C. 20240.

- c) OSM shall review any information submitted under subsection (b) above and shall make a written decision whether or not the ownership or control link has been shown to be erroneous or has been rebutted and/or whether the violation covered by the notice remains outstanding, has been corrected, is in the process of being corrected,



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or is the subject of a good faith appeal within the meaning of 30 CFR 1773.15 (b)(1).

## d) Notice to applicant.

1) If, as a result of the decision reached under subsection (c) above, OSM determines that the ownership or control link has been shown to be erroneous or has been rebutted and/or that the violation covered by the notice has been corrected, is in the process of being corrected, or is the subject of a good faith appeal, OSM shall so notify the applicant or other person and, if an application is pending, the Department, and shall correct the information in AVS.

2) If, as a result of the decision reached under subsection (c) above, OSM determines that the ownership or control link has not been shown to be erroneous and has not been rebutted and that the violation covered by the notice remains outstanding, OSM shall so notify the applicant or other person and, if an application is pending, the Department, and shall update the information in AVS, if necessary.

3) OSM shall serve a copy of the decision on the applicant or other person by certified mail, or by any means consistent with the rules governing service of a summons and complaint under Rule 4 of the Federal Rules of Civil Procedure. Service shall be complete upon tender of the notice or of the mail and shall not be deemed incomplete because of a refusal to accept.

4) The applicant or other person may appeal OSM's decision to the Department of the Interior's Office of Hearings and Appeals within 30 days of service of the decision in accordance with 43 CFR 4.1380 through 4.1387. OSM's decision shall remain in effect during the pendency of the appeal, unless temporary relief is granted in accordance with 43 CFR 4.1386.

(Source: Added at 19 Ill. Reg. \_\_\_\_\_, effective \_\_\_\_\_)

### Section 1773.25 Standards for Challenging Ownership or Control Links and the Status of Violations

a) The provisions of this Section shall apply whenever a person has and exercises a right, under the provisions of Sections 1773.20, 1773.21, 1773.23 or 1773.24, to challenge an ownership or control link to any person and/or the status of any violation covered by a notice. Agencies responsible.

1) Except as provided in subsection (b)(3) below:

A) The regulatory authority before which an application is pending shall have responsibility for making decisions with respect to ownership or control relationships of the application.

B) The regulatory authority that issued a permit shall have

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responsibility for making decisions with respect to the ownership or control relationships of the permit.

C) The regulatory authority for the State that issued a State violation notice shall have responsibility for making decisions with respect to the ownership or control relationships of the violation.

D) The regulatory agency that issued a violation notice, whether State or Federal, shall have responsibility for making decisions concerning the status of the violation covered by such notice, i.e., whether the violation remains outstanding, has been corrected, is in the process of being corrected, or is the subject of a good faith appeal, within the meaning of Section 1773.15(b)(1).

2) OSM shall have responsibility for making decisions with respect to the ownership or control relationships of a Federal violation notice.

3) With respect to information shown on AVS, the responsibilities referred to in subsection (b)(1) above shall be subject to the plenary authority of OSM to review any State regulatory authority decision regarding an ownership or control link.

4) With respect to ownership or control information which has not been entered into AVS by a State and with respect to information shown on AVS relating to the status of a violation, State regulatory authorities' determinations are subject to OSM's program authority oversight under 30 CFR 733, 842 and 843.

## c) Evidentiary standards.

1) In any formal or informal review of an ownership or control link or of the status of a violation covered by a violation notice, the responsible agency shall make a prima facie determination or showing that such link exists, existed during the relevant period, and/or that the violation covered by such notice remains outstanding. Once such a prima facie determination or showing has been made, the person challenging such link or the status of the violation shall have the burden of proving by a preponderance of the evidence, with respect to any relevant time period, that:

A) The facts relied upon by the responsible agency to establish ownership or control or a presumption of ownership and control under the definition of "owned or controlled" or "owns or controls" in Section 1773.5, do not or did not exist;

B) A person subject to a presumption of ownership or control under the definition of "owned or controlled" or "owns or controls" in Section 1773.5 does not or did not in fact have the authority directly or indirectly to determine the manner in which surface coal mining operations are or were conducted; or

C) The violation covered by the violation notice did not exist,

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has been corrected, is in the process of being corrected, or is the subject of a good faith appeal within the meaning of Section 1773.15(b)(1), provided that the existence of the violation at the time it was cited may not be challenged, under the provisions of Section 1773.24, by the following persons:

- i) By a permittee, unless such challenge is made by the permittee within the context of Section 1773.20 through 1773.21;
- ii) By any person who had a prior opportunity to challenge the violation notice and failed to do so in a timely manner; or
- iii) By any person who is bound by a prior administrative or judicial determination concerning the existence of the violation.

- 2) In meeting the burden of proof set forth in subsection (c)(1) above, the person challenging the ownership or control link or the status of the violation shall present probative, reliable and substantial evidence and any supporting explanatory materials, which may, if before the responsible agency, include:

A) Affidavits setting forth specific facts concerning the scope of responsibility of the various owners or controllers of an applicant, permittee, or any person cited in a violation notice; the duties actually performed by such owners or controllers; the beginning and ending dates of such owners' or controllers' affiliation with the applicant, permittee, or person cited in a violation notice; and the nature and details of any transaction creating or severing an ownership or control link; or specific facts concerning the status of the violation;

B) Certified copies of corporate minutes, stock ledgers, contracts, purchase and sale agreements, leases, correspondence or other relevant company records;

C) Certified copies of documents filed with or issued by any State, municipal or federal governmental agency;

D) An opinion of counsel, when supported by:

- i) Evidentiary materials;
- ii) A statement by counsel that he or she is qualified to render the opinion; and
- iii) A statement that counsel has personally and diligently investigated the facts of the matter or, where counsel has not so investigated the facts, a statement that such opinion is based upon information which has been supplied to counsel and which is assumed to be true;

E) If before any administrative or judicial tribunal reviewing the decision of the responsible agency, any evidence admissible under the rules of such tribunal.

- d) Following any determination by a State regulatory authority or other

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State agency, or any decision by an administrative or judicial tribunal reviewing such determination, the State regulatory authority shall review the information in AVS to determine if it is consistent with the determination or decision. If it is not, the State regulatory authority shall promptly inform OSM and request that the AVS information be revised to reflect the determination or decision.

(Source: Added at 19 Ill. Reg. \_\_\_\_\_, effective \_\_\_\_\_)

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- 1) Heading of the Part: Requirements for Permits for Special Categories of Mining

2) Code Citation: 62 Ill. Adm. Code 1785

3) Section Number: Proposed Action:

1785.17 Amend  
1785.23 Amend

- 4) Statutory Authority: Implementing and authorized by the Surface Coal Mining Land Conservation and Reclamation Act (Ill. Rev. Stat. 1991, ch. 96 1/2, pars. 7901.01 et seq.) [225 ILCS 720].

- 5) A complete description of the subjects and issues involved:

Section 1785.17 sets forth requirements for mining prime farmland, and is proposed to be amended to more closely mirror corresponding federal regulations. Counterpart federal regulations place no acreage limit on the amount of exempted prime farmland. In addition, federal regulations do not require a preliminary exemption review, which places unnecessary administrative burdens on the Department. The proposed changes are consistent with and as effective as counterpart federal regulations.

Section 1785.23 sets forth application and approval requirements for minor underground mine facilities not at or adjacent to the processing or preparation facility or area. Subsection (e) is proposed to be amended to give the Department the flexibility to require modifications to minor underground facilities applications. In addition, the time limit for the Department's decision is proposed to be extended from ten to twenty days.

Subsection (g)(1) is proposed to be amended to require the Department to notify persons who filed comments or objections to the application of its final decision thereon. The word "disapprove" is being replaced with "deny" in order to be consistent with other Sections of the regulations dealing with approval and denial of applications. In addition, the Department proposes to eliminate the requirement in subsection (g)(1) that it publish a public notice of its final action for underground mine facilities. The requirement is unnecessary because local government officials are notified, and under these amendments all persons who filed comments or objections will be notified. The public notice requirement originated in the initial federal program and was subsequently removed therefrom. The regulatory citation in subsection (g)(2) is proposed to be corrected.

- 6) Will this proposed rule replace an emergency rule currently in effect? No
- 7) Does this rulemaking contain an automatic repeal date? No

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- 8) Do these proposed amendments contain incorporations by reference? No
- 9) Are there any other amendments pending on this Part? No
- 10) Statement of Statewide Policy Objectives: The proposed amendments will have no impacts upon local units of government.

- 11) Time, Place, and Manner in which interested persons may comment on this proposed rulemaking:

Written comments may be submitted within 45 days of the publication of this notice to:

Karen Jacobs, Legal Counsel  
Illinois Department of Mines and Minerals  
300 West Jefferson, Suite 300  
Springfield, IL 62791-0137  
(217)782-6791

Commenters must provide a name and address. Comments must be directed to a specific subsection and must be made on a separate sheet of 8 1/2 x 11 inch paper.

Comments may include data, views, arguments or any documents relevant to the proposals noted above in the Description of Subjects and Issues involved. All comments are due at the above address no later than 45 days after the publication of this notice. Comments received thereafter will not be considered in this rulemaking.

- 12) Initial Regulatory Flexibility Analysis:

A) Types of small businesses affected: This rulemaking does not affect small businesses.

B) Reporting, bookkeeping or other procedures required for compliance: None

C) Types of professional skills necessary for compliance: None

- 13) State reason(s) for the rulemaking if it was not included in either of the two (2) most recent regulatory agendas:

This rulemaking was included in the regulatory agenda published at 19 Ill. Reg. 659-684 (January 20, 1995).

The full text of the Proposed Amendments begins on the next page.



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## TITLE 62: MINING

## CHAPTER I: DEPARTMENT OF MINES AND MINERALS

## PART 1785

## REQUIREMENTS FOR PERMITS FOR SPECIAL CATEGORIES OF MINING

Section	Scope
1785.1	Objective
1785.2	Experimental Practices Mining
1785.13	Mountaintop Removal Mining
1785.14	Steep Slope Mining
1785.15	Permits Incorporating Variances From Approximate Original Contour
1785.16	Restoration Requirements
1785.17	Prime Farmlands
1785.18	Variances for Delay in Contemporaneous Reclamation Requirement in Combined Surface and Underground Mining Activities
1785.20	Augering
1785.21	Coal Preparation Plants Not Located Within the Permit Area of a Mine
1785.22	In Situ Processing Activities
1785.23	Minor Underground Mine Facilities Not at or Adjacent to the Processing or Preparation Facility or Area

**AUTHORITY:** Implementing and authorized by the Surface Coal Mining Land Conservation and Reclamation Act (Ill. Rev. Stat. 1991, ch. 96 1/2, pars. 7901.01 et seq.) [225 ILCS 720].

**SOURCE:** Adopted at 4 Ill. Reg. 37, p. 1, effective June 1, 1982; amended at 6 Ill. Reg. 1, effective June 1, 1982; codified at 8 Ill. Reg. 15930; amended at 9 Ill. Reg. 13324, effective October 10, 1985; amended at 11 Ill. Reg. 8416, effective July 1, 1987; amended at 17 Ill. Reg. 11075, effective July 1, 1993; amended at 19 Ill. Reg. \_\_\_\_\_, effective \_\_\_\_\_.

**Section 1785.17 Prime Farmlands**

## a) Scope

This Section applies to any person who conducts or intends to conduct surface coal mining and reclamation operations on prime farmlands historically used for cropland. Nothing in this Section shall apply to any permit issued prior to the date of enactment of the Federal Act or to any revisions or renewals thereof or to any existing surface mining operations for which a permit was issued prior to the date of enactment of the Federal Act as determined by the Department prior to September 29, 1981. For lands for which a request for exemption was initially made or pending on or after September 29, 1981, this Section does not apply to this Section does not apply to:

- 1) Lands on which surface coal mining and reclamation operations are conducted pursuant to any permit issued prior to August 3, 1977;

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or

- 2) Lands on which surface coal mining and reclamation operations are conducted pursuant to any renewal or revision of a permit issued prior to August 3, 1977; or

- 3) Lands included in any existing surface coal mining operations for which a permit was issued for all or any part thereof prior to August 3, 1977, provided that:

A) Such lands are part of a single continuous surface coal mining operation begun under a permit issued before August 3, 1977; and

B) The permittee had a legal right to mine the lands prior to August 3, 1977, through ownership, contract, or lease but not including an option to buy, lease or contract; and

C) The lands contain part of a continuous recoverable coal seam that was being mined in a single continuous mining pit (or multiple pits if the lands are proven to be part of a single continuous surface coal mining operation) begun under a permit issued prior to August 3, 1977.

- 4) For the purposes of this Section Section:

A) "Renewal" of a permit shall mean a decision by the Department to extend the time by which a permittee may complete mining within the boundaries of the original permit and "revision" of the permit shall mean a decision by the Department to allow changes in the method of mining operations within the original permit area, or the decision of the Department to allow amendment, pursuant to State law, prior to June 1, 1982, or other incidental boundary changes to the original permit;

B) A pit shall be deemed to be a single continuous mining pit even if portions of the pit are crossed by a road, pipeline, railroad, or powerline or similar crossing;

C) A single continuous surface coal mining operation is presumed to consist only of a single continuous mining pit under a permit issued prior to August 3, 1977, but may include non-contiguous parcels if the operator can prove by clear and convincing evidence that, prior to August 3, 1977, the non-contiguous parcels were part of a single permitted operation. For the purpose of the paragraph, clear and convincing evidence includes, but is not limited to, contracts, leases, deeds or other properly executed documents (not including options) that specifically treat separate parcels as one surface coal mining operation.

- 5) The exemptions granted by subsections (a)(1)-(3) shall apply fully only to lands permitted and exempted by a Departmental decision on requests made prior to August 1, 1982. Persons initially requesting an exemption under subsections (1)-(3) after July 31, 1982, may obtain such exemption but lands subject to such requests shall comply with the prime farmland productivity

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standards-of-62-ill-Adm---Code--1923-15---Requests--first--made  
after-July-31-1927--shall-be-further-subject-to-an-exemption  
limitation-of-13,000-acres-stated-as-set-out-in-subsection  
(6)-below:

- 6) The-acreage-limitation-referred-to-in-subsection-(5)-shall-be  
implemented-as-follows--Requests-for-exemptions-from-prime  
farmland-permit-requirements-for-lands-first-submitted-after-July  
31-1927-and-pending-before-the-Department-on-the-effective-date  
of-this-rule-shall-be-collectively-totalled-for-acreage--if-the  
acreage-requested-and-also-eligible-(based-on-the-merits-of-the  
request)-for-this-exemption-is-less-than-13,000-acres--the  
request-shall-be-granted--On-a-monthly-basis--thereafter--the  
acreage-granted-under-this-exemption-shall-be-cumulatively  
totalled--in-the-month-that--the-cumulative-total-of--acreage  
granted-under-the-exemption-since-July-31-1927-exceeds-13,000  
acres--the-exemptions-shall-be-granted-subject-to-a-determination  
of-their-merits--for-that-month-on-a-pro-rata-basis--so-that--the  
cumulative-total-of-acres-exempted--hereunder--including--that  
month's-total--equals--13,000-acres--When--the--13,000--total  
cumulative-acres--have-been-exempted-pursuant-to-this-exemption  
the-exemption-shall-become-unavailable-to-future-requests--Any  
permittee-may-relinquish-exempted-acreage--released--in--the--event  
writing-identifying--the-acreage--released--is--so--relinquished--the  
available-exempt-acreage-shall-ever-be-so-relinquished--the  
availability-of-the-total-number-of-acres-shall-be-announced--by  
the-Department--to--all-existing-permittees--and-requests-made  
within-thirty-(30)-days-of-the-announcement-shall-be-granted--an  
exemption-on-a-pro-rata-basis-to-the-extent-of-available-acreage--  
7)5) A) All applicants for an exemption shall supply the Department  
with a scale map of the area proposed to be exempted, delineating  
all prime farmland soils and showing the total number of acres  
proposed for exemption to the nearest acre, and the numbers of  
acres of each prime farmland soil type in the area proposed to be  
exempted.

B) Requests-for--grandfather--exemptions--will--be--reviewed  
initially--by--the--Department--Based-on--the-information  
initially-submitted-in--the--request--the-Department--will  
prepare--a--preliminary--review--the--request--and--the  
Department's-preliminary-review-will-be-subject-to-public  
comment--and--review--along--with--the-permit-application-to  
which-the-grandfathering-request-applies--A-decision-on-the  
grandfathering--request--will--be--included--with--the  
Department's-results-of-decision-on-the-permit-application  
which--includes--the-requested-acreage.

b) Application contents--reconnaissance inspection.

- 1) All permit applications, whether or not prime farmland is  
present, shall include the results of a reconnaissance inspection  
of the proposed permit area to indicate whether prime farmland

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exists. The reconnaissance inspection shall be either a review  
of an existing soil survey for the proposed permit area or an  
on-site inspection of the proposed permit area. The Department  
shall consult with the U.S. Soil Conservation Service (S.C.S.) to  
determine the nature and extent of the required reconnaissance  
inspection.

- 2) If the reconnaissance inspection establishes that no land within  
the proposed permit area is prime farmland historically used for  
cropland, the applicant shall submit a statement that no prime  
farmland is present. The statement shall identify the basis upon  
which such a conclusion was reached.

- 3) In those cases where an on-site inspection of the proposed permit  
area was the type of reconnaissance inspection conducted, the  
applicant shall have a soil survey made of the lands within the  
permit area which the reconnaissance inspection indicates could  
be prime farmland. In those cases where a review of an existing  
soil survey was the type of reconnaissance inspection conducted,  
the applicant shall have the soil survey revised, if necessary,  
to meet the standards of subsection (c)(1). Soil surveys of the  
detail used by the S.C.S. for operational conservation planning  
shall be used to identify and locate prime farmland soils, as  
specified in subsection (c)(1)(A).

A) If the soil survey indicates that no prime farmland soils  
are present within the proposed permit area, subsection  
(b)(2) shall apply.

B) If the soil survey indicates that prime farmland soils are  
present within the proposed permit area, subsection (c)  
shall apply.

- c) Application contents for prime farmland.

All permit applications for areas in which prime farmland has been  
identified, within the proposed permit area, shall include the  
following:

- 1) A soil survey of the permit area according to the standards of  
the National Cooperative Soil Survey and in accordance with the  
procedures set forth in U.S. Department of Agriculture Handbooks  
436 (Soil Taxonomy, 1975) and 18 (Soil Survey Manual, 1951);

A) These publications are hereby incorporated by reference as  
they exist on the date of adoption of this Part. Agriculture  
Handbooks 436 (Soil Taxonomy) and 18 (Soil Survey Manual)  
are on file and available for inspection at the Office of  
Surface Mining and Reclamation (OSMRE), Central Office, U.S.  
Department of the Interior, 1951 Constitution Avenue, N.W.,  
Washington, D.C., at each OSM Technical Center and Field  
Office. Copies of these publications may also be obtained  
by written request to the above locations. Copies of these  
documents are also available from the Superintendent of  
Documents, U.S. Government Printing Office, Washington, D.C.  
20402, Stock Number 001-000-02597-0 and Stock Number

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10100-688-6. In addition, these documents are available for inspection at the national, state, and local offices of the Soil Conservation Service, U.S. Department of Agriculture (USDA) and at the Federal Register Library, 1100 L. Street, N.W., Washington, D.C. Copies of these documents will be available for public review and copying at cost at the Office of the Secretary of State, and at the Springfield and Marion office of the Land Reclamation Division of the Department.

B) The soil survey shall include a description of soil mapping units and a representative soil profile as determined by the S.C.S., including, but not limited to, soil horizon depths, pH, and range of soil densities for each prime farmland soil map unit wit in the permit area. Other representative soil profile descriptions from the locality, prepared according to the standards of the National Cooperative Soil Survey, may be used if their use is approved by the State Conservationist, of the S.C.S. The Department shall request the operator to provide information on other physical and chemical soil properties as needed to make a determination that the operator has the technological capability to restore the prime farmland within the permit area to the soil reconstruction standards of 62 Ill. Adm. Code 1823.

2) A plan for soil reconstruction, replacement and stabilization for the purpose of establishing the technological capability of the mine operator to comply with the requirements of 62 Ill. Adm. Code 1823.

3) Scientific data, such as agricultural school studies, for areas with comparable soils, climate, and management that demonstrate that the proposed method of reclamation, including the use of soil mixtures or substitutes, if any, will achieve, within a reasonable time, levels of yield equivalent to, or higher than, those of nominated prime farmland in the surrounding area.

4) The productivity prior to mining, including the average yield of food, fiber, forage, or wood products obtained under a high level of management.

d) Consultation with the State Conservationist.

1) Before any permit is issued for areas that include prime farmlands, the Department shall consult with the State Conservationist of the Soil Conservation Service. The State Conservationist shall provide for the review of, and comment on the proposed method of soil reconstruction in the plan submitted under subsection (c). If the State Conservationist considers those methods to be inadequate, he or she shall suggest revisions resulting in more complete and adequate reconstruction. In keeping with the time limitations imposed by these regulations, the State Conservationist's response will be expected within thirty (30) days of the last publication of the newspaper

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advertisement placed by the applicant. ~~the State recognizes that the permit cannot be issued without the required consultation with USBA.~~

2) The State Conservationist shall provide to the Department a list of prime farmland soils, their location, physical and chemical characteristics, crop yields, and associated data necessary to support adequate prime farmland soil descriptions.

3) The State Conservationist shall assist the Department in determining the adequacy of all soil surveys required in subsection (b)(1).

e) Issuance of permit.

A permit for the mining and reclamation of prime farmland may be granted by the Department, if it first finds, in writing, upon the basis of a complete application, that:

1) The approved proposed post-mining land use of these prime farmlands will be cropland;

2) The permit incorporates as specific conditions the contents of the plan submitted under subsection (c), after consideration of any revisions to that plan suggested by the State Conservationist under subsection (d);

3) The applicant has the technological capability to restore the prime farmland, within a reasonable time, to equivalent or higher levels of yield as nonmined prime farmland in the surrounding area under equivalent levels of management; and

4) The proposed operations will be conducted in compliance with the requirements of 62 Ill. Adm. Code 1823 and other environmental protection performance and reclamation standards for mining and reclamation of prime farmland of the regulatory program.

(Source: Amended at 19 Ill. Reg. \_\_\_\_\_, effective \_\_\_\_\_)

### Section 1785.23 Minor Underground Mine Facilities Not at or Adjacent to the Processing or Preparation Facility or Area

a) Any person who intends to conduct underground mining activities which require establishment or use of minor underground mine facilities not at or adjacent to the processing or preparation facility or area shall obtain a permit from the Department.

b) Minor underground mine facilities include air shafts, fan and ventilation buildings, small support buildings or sheds, access power holes, other small miscellaneous structures and associated roads.

c) Contents of application for permit. Each application for a permit shall contain, at a minimum, the following information:

1) The name, address, and telephone number of the applicant;

2) Reclamation and operations plans, including:

A) A narrative description of the proposed minor disturbance area, cross-referenced to the map required under subsection



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(C)(4), including surface topography; geological, surface water, and other physical features; and vegetative cover;

B) A narrative description of the methods to be used in the operations and reclamation, including, but not limited to, the types and uses of equipment, drilling, blasting, road or other access route construction, and excavated earth and other debris disposal activities;

C) An estimated timetable for conducting and completing each phase of the reclamation;

D) The estimated amounts of coal to be removed and a description of the methods to be used to determine those amounts; and

E) A description of the measures to be used to comply with the applicable requirements of 62 Ill. Adm. Code 1817.182.

3) The name and address of the owner of record of the surface land;

4) A map at a scale of 1:24,000 or larger, showing the areas of land to be disturbed by the proposed operations and reclamation. The map shall specifically show existing roads, occupied dwellings, and pipelines; proposed location of trenches, roads, and other access routes and structures to be constructed; the location of land excavations to be conducted; water or coal exploratory holes and wells to be drilled or altered; earth or debris disposal areas; existing bodies of surface water; historic, topographic, cultural, and drainage features; and

5) If the surface is owned by a person other than the applicant, a description of the basis upon which the applicant claims the right to enter that land for the purpose of conducting operations and reclamation.

d) Public notice and opportunity to comment. Public notice of the application and opportunity to comment shall be provided as follows:

1) Within five (5) days of filing of an application with the Department, public notice shall be posted by the applicant at the courthouse or other public office designated by the Department in the vicinity of the proposed permit area and shall be published in a local newspaper in the area of the proposed activities;

2) The public notice shall state the name and business address of the person seeking the permit, the date of filing of the application, the address of the Department at which written comments on the application may be submitted, the closing date of the comment period, and a description of the general area of the proposed activities. In no case shall the public comment period be less than thirty (30) days;

3) Any person with an interest which is or may be adversely affected shall have the right to file written comments on the application within reasonable time-limits the public comment period; and

4) The Interagency Committee shall be given copies of the application and provided thirty (30) days from the date of public notice receipt to submit comments.

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e) Applications: Approval or disapproval of minor underground mining activities not at or near the mine site.

1) The Department shall ~~act-upon-a~~ make its final decision to approve, deny or modify the ~~completed~~ complete application for a permit within ~~ten--(10)~~ twenty (20) days following the close of the public comment period; or

2) The Department shall approve a complete application filed in accordance with this Section if it finds in writing that the applicant has demonstrated that the activities and reclamation described in the application will be conducted in accordance with the State Act and 62 Ill. Adm. Code 1817.182.

f) Terms of approval. Each permit issued by the Department shall contain conditions necessary to ensure that the activities and reclamation will be conducted in compliance with the State Act and 62 Ill. Adm. Code 1817.182.

g) Applications: Notice and hearing for minor underground mining facilities.

1) The Department shall notify the applicant, each person who filed comments or objections to the permit application and the appropriate local government officials, in writing, of its decision to approve or ~~disapprove~~ deny the application. If the application is ~~disapproved~~ denied, the notice to the applicant shall include a statement of the reason for disapproval. ~~The Department shall provide public notice of approval or disapproval of each application, by publication in a newspaper of general circulation in the general vicinity of the proposed activities.~~

2) Any person with interests which are or may be adversely affected by a decision of the Department pursuant to paragraph (g)(1) above shall have the opportunity for administrative and judicial review as set forth in 62 Ill. Adm. Code ~~1775~~ 1847.3.

h) Minor facility compliance duties.

1) Minor underground mine facilities not at or adjacent to the processing or preparation facility or area shall be conducted in accordance with 62 Ill. Adm. Code 1817.182 and any conditions on approval of such activities.

2) Any person who utilizes or establishes such minor facilities in violation of the State Act, this Section or 62 Ill. Adm. Code 1817.182 shall be subject to the provisions of Sections 8.01 to 8.10 of the State Act and 62 Ill. Adm. Code 1840 through 1845.

(Source: Amended at 19 Ill. Reg. \_\_\_\_\_, effective \_\_\_\_\_)

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- 1) Heading of the Part: Revision; Renewal; and Transfer, Assignment or Sale of Permit Rights
- 2) Code Citation: 62 Ill. Adm. Code 1774
- 3) Section Number:  
1774.13  
Proposed Action:  
Amend
- 4) Statutory Authority: Implementing and authorized by the Surface Coal Mining Land Conservation and Reclamation Act (Ill. Rev. Stat. 1991, ch. 96 1/2, pars. 7901.01 et seq.) [225 ILCS 720].

- 5) A complete description of the subjects and issues involved:

Section 1774.13 contains provisions for permit revisions. Section 1774.13(b)(2)(E) currently requires a significant revision for land use changes involving greater than 5% of the original total permit acreage. The size of a permit can change from the original total acreage by the addition of incidental boundary revisions. Since land use changes addressed by the current rule do not require public review and comment, the 5% limit was established to prevent permittees from making large scale land use changes without having afforded the public the opportunity for reviewing and commenting on the proposed changes prior to approval, as required for significant revisions.

The proposed addition of subsection (b)(2)(E)(i) would allow the cumulation of the 5% limit to restart upon issuance of a significant revision that addressed all previous land use changes approved via insignificant revisions, i.e. without the benefit of public review and comment. Thus, the permittee would be allowed to take advantage of the provision for insignificant land use changes for the life of the permit, but changing more than 5% of the permit area without giving the public an opportunity for review and comment would not be allowed. By allowing the incidental boundary revisions that have been addressed in a subsequent significant revision to be considered as part of the original permit acreage, permittees will be afforded the opportunity to use the insignificant land use revision provisions for all the acres under permit that have gone through the public review and comment process, while the public will be protected from having land use changes on more than 5% of a permit without their having an opportunity for review and comment.

New subsection (d)(6) is proposed to be added regarding incidental boundary revision application notice and comment. This proposed new subsection is in response to the Office of Surface Mining Reclamation and Enforcement's August 5, 1993 30 CFR 732 letter.

- 6) Will this proposed rule replace an emergency rule currently in effect?

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- No
- 7) Does this rulemaking contain an automatic repeal date? No
- 8) Do these proposed amendments contain incorporations by reference? No
- 9) Are there any other amendments pending on this Part? No
- 10) Statement of Statewide Policy Objectives: The proposed amendments will have no impacts upon local units of government.
- 11) Time, Place, and Manner in which interested persons may comment on this proposed rulemaking:

Written comments may be submitted within 45 days of the publication of this notice to:

Karen Jacobs, Legal Counsel  
Illinois Department of Mines and Minerals  
300 West Jefferson, Suite 300  
Springfield, IL 62791-0137  
(217) 782-6791

Commenters must provide a name and address. Comments must be directed to a specific subsection and must be made on a separate sheet of 8 1/2 x 11 inch paper.

Comments may include data, views, arguments or any documents relevant to the proposals noted above in the Description of Subjects and Issues involved. All comments are due at the above address no later than 45 days after the publication of this notice. Comments received thereafter will not be considered in this rulemaking.

- 12) Initial Regulatory Flexibility Analysis:

A) Types of small businesses affected: This rulemaking does not affect small businesses.

B) Reporting, bookkeeping or other procedures required for compliance:  
None

C) Types of professional skills necessary for compliance: None

- 13) State reason(s) for the rulemaking if it was not included in either of the two (2) most recent regulatory agendas:

This rulemaking was included in the regulatory agenda published at 19 Ill. Reg. 659-684 (January 20, 1995).

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The full text of the Proposed Amendments begins on the next page.

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TITLE 62: MINING

CHAPTER I: DEPARTMENT OF MINES AND MINERALS

## PART 1774

REVISION; RENEWAL; AND TRANSFER, ASSIGNMENT, OR SALE OF PERMIT RIGHTS

## Section

- 1774.1 Scope and Purpose
- 1774.11 Department Review of Permits
- 1774.13 Permit Revisions
- 1774.15 Permit Renewals
- 1774.17 Transfer, Assignment, or Sale of Permit Rights

**AUTHORITY:** Implementing and authorized by the Surface Coal Mining Land Conservation and Reclamation Act (Ill. Rev. Stat. 1991, ch. 36 1/2, pars. 7901.01 et seq.) [225 ILCS 720].

**SOURCE:** Adopted at 11 Ill. Reg. 8469, effective July 1, 1987; amended at 14 Ill. Reg. 11900, effective January 1, 1991; amended at 15 Ill. Reg. 17284, effective January 1, 1992; amended at 17 Ill. Reg. 11083, effective July 1, 1993; amended at 19 Ill. Reg. \_\_\_\_\_, effective \_\_\_\_\_.

## Section 1774.13 Permit Revisions

- a) During the term of a permit, the permittee may submit an application to the Department for a revision of the permit. Such application may be made on the standard Department permit form; however, only those sections of the form which pertain to the revision in question must be completed.
- b) Application Requirements and Procedures.
  - 1) The Department will approve or disapprove applications for insignificant revisions within ninety (90) days after receipt of the application; applications for significant revision will be acted upon in accordance with 62 Ill. Adm. Code 1773.13 and 1773.15.
  - 2) A significant revision to a permit shall be obtained for changes in the surface coal mining or reclamation operations described in the original application and approved under the original permit, when such changes constitute a significant departure from the method of conduct of mining or reclamation operations contemplated by the original permit. For purpose of these requirements, significant departures from the methods or conduct of mining or reclamation operations include any change in such mining or reclamation operations, except the following, if not contemplated or provided for in the original permit:
    - A) For surface mines, changes of direction of mining or location of mining equipment within the permit area;
    - B) Substitution of mining equipment designed for the same



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purpose, the use of which is not detrimental to achievement of final reclamation or subsidence control;

C) For underground mines, any change in direction or location of mining within the permit area or shadow area, in response to unanticipated events;

D) Any other change in operations, methods, or conduct of mining described in writing to the Department which the Department excuses in writing from requirement of revision on a case-by-case basis after determining that the described change will have no significant potential adverse impact on the achievement of final reclamation plans or subsidence control plans or upon the surrounding area;

E) Any alteration in the reclamation plan or reclamation operations which does not involve significant delay or significant change in land use described in writing to the Department and excused from this requirement of revision on a case-by-case basis. A significant revision shall be required for land use changes involving greater than 5% of the original total permit acreage. ~~The 5% limit shall be a cumulative total from permit issuance until final bond release.~~ Alternative land use proposals shall comply with 62 Ill. Adm. Code 1816.133 or 1817.133, and shall be approved only after consultation with the landowner or the land management agency with jurisdiction over the land. ~~er.~~ The 5% limit shall be a cumulative total from permit issuance until final bond release, except as follows:

- i) The 5% limit shall restart upon the issuance of a significant revision that addresses all previous land use changes approved under this Part; and
- ii) The total permit acreage used to determine the 5% limit shall include incidental boundary revisions (IBRs) if the IBRs have been addressed previously in a significant revision; or

F) Any temporary change in operations, subsidence control or reclamation plans necessitated by unanticipated and unusually adverse weather conditions, other acts of God, strikes, or other cause beyond the reasonable control of the permittee, after review and approval by the Department in writing, provided that all steps specified by the Department to maximize environmental protection are taken.

- 3) All significant permit revision applications shall meet the requirements of 62 Ill. Adm. Code 1773.13, 1773.19(b)(1) and (3) and 1778.21.

c) No application for a permit revision shall be approved unless the application demonstrates and the Department finds that reclamation as required by the Act and the regulatory program can be accomplished, applicable requirements under 62 Ill. Adm. Code 1773.15(c) which are pertinent to the revision are met, and the application for a revision

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complies with all requirements of the Act and the regulatory program. Extensions of the permit area, except for incidental boundary revisions, shall be made by application for a new permit, and shall not be approved under this Part. Extensions of the shadow area, except for incidental boundary revisions, shall be made and approved pursuant to the requirements of this Part. Application for incidental boundary revisions shall be made pursuant to subsection 1774.13(a) above. Incidental boundary revisions are those which:

- 1) Constitute a relatively small percentage of the initial permit acreage;
- 2) Are contiguous with the permit or shadow area acreage, except that isolated long-term support facilities associated with underground mining activities need not be contiguous provided such facilities do not include coal preparation or coal waste disposal areas. Non-contiguous incidental boundary revisions shall be subject to the performance standards of 62 Ill. Adm. Code 1817.182;
- 3) Are required for the orderly and continuous mining operation;
- 4) Would be reclaimed in conformity with the initial plan, except where provided under subsection (d)(2) above;
- 5) For the purpose of this section, incidental boundary changes are described as follows:

Original Permit	Maximum Size of Boundary Changes-Acres
Up to 10	1
Up to 25	2.5
Up to 50	5
Up to 75	7.5
Up to 100	10
Over 100	20

The maximum size for acreage additions to approved non-contiguous incidental boundary revision areas, as described in subsection (d)(2) above, shall be based upon the original boundary revision acreage, not the original permit acreage.

6) Notice of an incidental boundary revision application shall be published in a local newspaper in the area of the proposed activities. The notice shall describe the general area of the proposed activities and shall state the name and business address of the permittee, the address of the Department at which written comments on the application may be submitted and the closing date of the comment period. In no case shall the public comment period be less than ten (10) days. In order to process the incidental boundary revision application, proof of such publication must be submitted to the Department. The notice requirements of this subsection shall not apply to unplanned subsidence areas.

e) A determination as to what constitutes a significant departure shall be made by the Department in consultation with the permittee. Changes which do not alter the final reclamation or mining plan are considered

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minor and do not require permit revision. However, any request for such changes shall be included in a written request to the Department.

(Source: Amended at 19 Ill. Reg. \_\_\_\_\_, effective \_\_\_\_\_)

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- 1) Heading of the Part: Small Operator Assistance
- 2) Code Citation: 62 Ill. Adm. Code 1795
- 3) Section Number:  
1795.1 Amend  
1795.4 Amend  
1795.6 Amend  
1795.9 Amend  
1795.12 Amend
- 4) Statutory Authority: Implementing and authorized by the Surface Coal Mining Land Conservation and Reclamation Act (Ill. Rev. Stat. 1991, ch. 96 1/2, par. 7901.01 et seq.) (225 ILCS 720).
- 5) A complete description of the subjects and issues involved: Sections 2.02 and 3.15 of the Surface Coal Mining Land Conservation and Reclamation Act (225 ILCS 720/2.02 and 3.15) were recently amended to require the Department to provide assistance to operators, to the extent required under federal law, when probable total annual coal production will not exceed 300,000 tons. The amendments also provided that the operator would reimburse the Department for the cost of services rendered when the operator's annual production of coal for all locations exceeds 300,000 tons during the 12 months following the issuance of the permit. Further, statutory changes expanded eligibility to information not previously eligible for reimbursement.  
  
Proposed amendments to Part 1795 of the Department's rules, which contains small operator assistance provisions, implement the above cited statutory changes and are consistent with counterpart federal regulations at 59 Fed. Reg. 28168 (May 31, 1994).
- 6) Will this proposed rule replace an emergency rule currently in effect? No
- 7) Does this rulemaking contain an automatic repeal date? No
- 8) Do these proposed amendments contain incorporations by reference? No
- 9) Are there any other amendments pending on this Part? No
- 10) Statement of Statewide Policy Objectives: The proposed amendments will have no impact upon local units of government.
- 11) Time, Place, and Manner in which interested persons may comment on this proposed rulemaking: Written comments may be submitted within 45 days of the publication of this notice to:

Karen Jacobs, Legal Counsel

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Illinois Department of Mines and Minerals  
300 West Jefferson, Suite 300  
Springfield, IL 62791-0137  
(217)782-6791

Commentors must provide a name and address. Comments must be directed to a specific subsection and must be made on a separate sheet of 8 1/2 x 11 inch paper.

Comments may include data, views, arguments or any documents relevant to the proposals noted above in the Description of Subjects and Issues involved. All comments are due at the above address no later than 45 days after the publication of this notice. Comments received thereafter will not be considered in this rulemaking.

12) Initial Regulatory Flexibility Analysis:

- A) Types of small businesses affected: This rulemaking does not affect small businesses.
- B) Reporting, bookkeeping or other procedures required for compliance:  
None
- C) Types of professional skills necessary for compliance: None

- 13) State reason(s) for the rulemaking if it was not included in either of the two (2) most recent regulatory agendas: This rulemaking was included in the regulatory agenda published at 19 Ill. Reg. 659-684 (January 20, 1995).

The full text of the Proposed Amendments begins on the next page.

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TITLE 62: MINING  
CHAPTER I: DEPARTMENT OF MINES AND MINERALS  
PART 1795  
SMALL OPERATOR ASSISTANCE

Section	Scope and Purpose
1795.1	Objective (Repealed)
1795.2	Authority
1795.3	Definitions
1795.4	Eligibility for Assistance
1795.5	Filing for Assistance
1795.6	Application Approval and Notice
1795.7	Program Services and Data Requirements
1795.8	Qualified Laboratories
1795.9	Assistance Funding
1795.10	Applicant Liability
1795.11	Eligibility for Assistance (Repealed)
1795.12	Filing for Assistance (Repealed)
1795.13	Application Approval and Notice (Repealed)
1795.14	Data Requirements (Repealed)
1795.15	Qualified Laboratories (Repealed)
1795.16	Assistance Funding (Repealed)
1795.17	Applicant Liability (Repealed)
1795.18	
1795.19	

AUTHORITY: Implementing and authorized by the Surface Coal Mining Land Conservation and Reclamation Act (Ill. Rev. Stat. 1991, ch. 96 1/2, pars. 7901.01 et seq.) [225 ILCS 720].

SOURCE: Adopted at 4 Ill. Reg. 37, P. 1, effective June 1, 1982; codified at 8 Ill. Reg. 16438; amended at 11 Ill. Reg. 8481, effective July 1, 1987; amended at 19 Ill. Reg. \_\_\_\_\_, effective \_\_\_\_\_.

## Section 1795.1 Scope and Purpose

- a) This Part comprises the Small Operator Assistance Program (SOAP) and establishes the procedures for providing assistance to eligible operators by the program administrator.
- b) The purpose of the program is to provide for eligible operators a determination of probable hydrologic consequences and a statement of results of test borings or core samplings which are required components of the permit application under 62-III-Adm-Code-1792 through 1795 including the engineering analysis and designs necessary for the determination; cross-sections, maps and plans; geologic drilling and statement of results of test borings and samplings; archaeological and historical information collection and relevant plan preparation; pre-blast surveys and pre-blast survey reports; and site



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specific resource information collection and relevant plan preparation which are required components of the permit application under 62 Ill. Adm. Code 1772 through 1785.

(Source: Amended at 19 Ill. Reg. \_\_\_\_\_, effective \_\_\_\_\_)

## Section 1795.4 Definitions

- a) As used in this Part, program administrator means the Illinois Department of Mines and Minerals (Department) Director's designee in the Land Reclamation Division; and
- b) Qualified laboratory means a designated public agency, private firm, institution, or analytical laboratory which can prepare the required determination of probable hydrologic consequences or statement of results of test borings or core samples under the Small Operator Assistance Program and which meets the standards of Section 1795.19 other studies and/or reports or plans under the Small Operator Assistance program which meet the standards of Section 1795.10.

(Source: Amended at 19 Ill. Reg. \_\_\_\_\_, effective \_\_\_\_\_)

## Section 1795.6 Eligibility for Assistance

An applicant is eligible for assistance if he or she:

- a) Intends to apply for a permit pursuant to the Surface Coal Mining Land Conservation and Reclamation Act (33 Rev. Stat. 1985, Ch. 96-1-27, par. 7901-01 et seq.) (225 ILCS 720) (State Act);
- b) Establishes that his or her probable total actual and attributed annual production from all locations on which the operator is issued the surface coal mining and reclamation operations permit will not exceed 300,000 tons during any consecutive twelve (12)-month period either during the term of his or her permit or during the first five (5) years after issuance of his or her permit, whichever period is shorter, will not exceed one hundred thousand (100,000) tons. Production from the following operations shall be attributed to the applicant:

- 1) The pro rata share, based upon percentage of ownership of applicant, of coal produced by operations in which the applicant owns more than a five (5) ten (10) percent interest;
- 2) The pro rata share, based upon percentage of ownership of applicant, of coal produced in other operations by persons who own more than five (5) ten (10) percent of the applicant's operation;
- 3) All coal produced by operations owned by persons who directly or indirectly control the applicant by reason of direction of the management;

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- 4) All coal produced by operations owned by members of the applicant's family and the applicant's relatives, unless it is established that there is no direct or indirect business relationship between or among them;
- c) Is not restricted in any manner from receiving a permit under the permanent regulatory program; and
- d) Does not organize or reorganize his or her company solely for the purposes of obtaining assistance under the SOAP.

(Source: Amended at 19 Ill. Reg. \_\_\_\_\_, effective \_\_\_\_\_)

## Section 1795.9 Program Services and Data Requirements

- a) To the extent possible with available funds, the program administrator shall select and pay a qualified laboratory to make the determination, studies, reports, plans and statement referenced in subsection (b) below for eligible operators who request assistance.

- b) The program administrator shall determine the data needed for each applicant or group of applicants. Data collected and the results provided to the program administrator shall be sufficient to satisfy the requirements for:

- 1) The determination of probable hydrologic consequences, including the engineering analysis and designs necessary for the determination, of the surface mining and reclamation operations in the proposed permit and adjacent areas in accordance with 62 Ill. Adm. Code 1780.21(f) and 1784.14(e); and
- 2) The drilling and statement of the results of test borings or core samples for the proposed permit in accordance with 62 Ill. Adm. Code 1780.22(b) and 1784.22(b)-i
- 3) Cross-sections, maps and plans required by 62 Ill. Adm. Code 1779.25 and 1783.25;
- 4) Collection of archaeological and historical information and related plans required by 62 Ill. Adm. Code 1779.12(b), 1780.31, 1783.12(b) and 1784.17, and any other archaeological and historical information required by the Department;
- 5) Pre-blast surveys and reports pursuant to the provisions of 62 Ill. Adm. Code 1816.62;
- 6) Site specific resource information and protection and enhancement plans for fish and wildlife habitats and other environmental values required by the Department under 62 Ill. Adm. Code 1779.19, 1780.16, 1783.19 and 1784.21, and information and plans for any other environmental values required by the Department under the State Act.
- c) Data collection and analysis may proceed concurrently with the development of mining and reclamation plans by the operator.
- d) Data collected under this program shall be made publicly available in accordance with 62 Ill. Adm. Code 1773.13(d). The program

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administrator shall develop procedures for interstate coordination and exchange of data.

(Source: Amended at 19 Ill. Reg. \_\_\_\_\_, effective \_\_\_\_\_.)

## Section 1795.12 Applicant Liability

- a) The applicant shall reimburse the Department for the cost of the laboratory services performed pursuant to this Part if:
- 1) The applicant submits false information, fails to submit a permit application within one (1) year from the date of receipt of the approved laboratory report, or fails to mine after obtaining a permit;
  - 2) The program administrator finds that the applicant's actual and attributed annual production of coal for all locations exceeds ~~one-hundred-thousand-and-~~thirty-thousand~~-tons-during-any-consecutive-twelve-month-period-either-during-the-term-of-the-permit-for-which assistance-is-provided-or-during-the-first-five-~~ten~~-years-after issuance-of-the-permit-whichever-is-shorter--or~~ 300,000 tons during the 12 months immediately following the date on which the operator is issued the surface coal mining and reclamation permit; or
  - 3) The permit is sold, transferred, or assigned to another person and the original permittee's and transferee's total actual and attributed production exceeds ~~the-one-hundred-thousand-and-~~thirty-thousand~~-ton-annual-production-limit-during-any-consecutive-twelve-month-period--of-the-remaining-term-of-the-permit~~ 300,000 tons during the twelve (12) months immediately following the date on which the permit was originally issued. If the permit is transferred during the twelve (12) month period immediately following the permit issuance date, the determination of adherence to the twelve (12) month - 300,000 tons limit shall be performed by combining the actual and attributed production of both parties for the twelve (12) month period immediately following the date of original permit issuance. Under this subsection the applicant and its successor are jointly and severally obligated to reimburse the Department.
  - b) The program administrator shall waive the reimbursement obligation if he or she finds that the applicant at all times acted in good faith. ~~Good-faith-means-honesty-of-intention-and-freedom-from-knowledge-of circumstances-which-ought-to-be-put--the-applicant-for-small-operator assistance-upon-inquiry.~~

(Source: Amended at 19 Ill. Reg. \_\_\_\_\_, effective \_\_\_\_\_.)

## DEPARTMENT OF MINES AND MINERALS

## NOTICE OF PROPOSED AMENDMENTS

1) Heading of the Part: Special Permanent Program Performance Standards--Operations on High Capability Lands

2) Code Citation: 62 Ill. Adm. Code 1825

3) Section Number: Proposed Action:  
1825.14 Amend

4) Statutory Authority: Implementing and authorized by the Surface Coal Mining Land Conservation and Reclamation Act (Ill. Rev. Stat., ch. 96 1-2, par. 7901.01 et seq.) [225 ILCS 723].

5) A complete description of the subjects and issues involved: Section 1825.14 sets forth soil replacement requirements for high capability lands. Subsection (e) is proposed to be revised to provide additional methods for the Department to evaluate excessive compaction. The Department will consult with appropriate agencies before adopting any additional methods. Current regulations require a compaction alleviation plan unless the permittee can demonstrate that the soils are equivalent to unmined soils. Another proposed provision would waive that requirement if the operator has demonstrated that it can meet the revegetation requirements without some type of augmentative practice. In addition, the provisions for retaining sufficient bond to ensure that adequate funds are available for augmentation have been moved to this Section from Section 1816.116(a)(2)(F).

6) Will this proposed rule replace an emergency rule currently in effect? No

7) Does this rulemaking contain an automatic repeal date? No

8) Do these proposed amendments contain incorporations by reference? No

9) Are there any other amendments pending on this Part? No

10) Statement of Statewide Policy Objectives: The proposed amendments will have no impacts upon local units of government.

11) Time, place, and manner in which interested persons may comment on this proposed rulemaking: Written comments may be submitted within 45 days of the publication of this notice to:

Karen Jacobs, Legal Counsel  
Illinois Department of Mines and Minerals  
300 West Jefferson, Suite 300  
Springfield, IL 62791-0137  
(217)782-6791

## DEPARTMENT OF MINES AND MINERALS

## NOTICE OF PROPOSED AMENDMENTS

Commenters must provide a name and address. Comments must be directed to a specific subsection and must be made on a separate sheet of 8 1/2 x 11 inch paper.

Comments may include data, views, arguments or any documents relevant to the proposals noted above in the Description of Subjects and Issues involved. All comments are due at the above address no later than 45 days after the publication of this notice. Comments received thereafter will not be considered in this rulemaking.

## 12) Initial Regulatory Flexibility Analysis:

- A) Types of small businesses affected: This rulemaking does not affect small businesses.
- B) Reporting, bookkeeping or other procedures required for compliance: None
- C) Types of professional skills necessary for compliance: None

13) State reason(s) for the rulemaking if it was not included in either of the two (2) most recent regulatory agendas: This rulemaking was included in the regulatory agenda published at 19 Ill. Reg. 659-684 (January 20, 1995).

The full text of the Proposed Amendments begins on the next page.

## DEPARTMENT OF MINES AND MINERALS

## NOTICE OF PROPOSED AMENDMENTS

TITLE 62: MINING

CHAPTER I: DEPARTMENT OF MINES AND MINERALS

## PART 1825

SPECIAL PERMANENT PROGRAM PERFORMANCE STANDARDS--  
OPERATIONS ON HIGH CAPABILITY LANDS

Section	
1825.11	High Capability Lands: Special Requirements
1825.12	High Capability Lands: Soil Removal
1825.13	High Capability Lands: Soil Stockpiling
1825.14	High Capability Lands: Soil Replacement

AUTHORITY: Implementing and authorized by the Surface Coal Mining Land Conservation and Reclamation Act (Ill. Rev. Stat. 1991, ch. 96 1/2, pars. 7901.01 et seq.) [225 ILCS 720].

SOURCE: Adopted at 4 Ill. Reg. 37, p. 1, effective June 1, 1982; amended at 6 Ill. Reg. 1, effective June 1, 1982; emergency amendment at 6 Ill. Reg. 8502, effective July 1, 1982, for a maximum of 150 days; codified at 8 Ill. Reg. 9363; amended at 6 Ill. Reg. 9987, effective September 3, 1982; amended at 12 Ill. Reg. 9628, effective July 1, 1986; amended at 11 Ill. Reg. 8526, effective July 1, 1987; amended at 19 Ill. Reg. \_\_\_\_\_, effective \_\_\_\_\_.

## Section 1825.14 High Capability Lands: Soil Replacement

Surface mining operations on high capability lands shall be conducted according to the following:

- a) The operator shall establish a suitable rooting medium.
- 1) Texture. In order to be of suitable texture, the materials under the darkened surface soil suitable as a root medium shall contain no more than twenty percent (20%) coarse material (greater than two (2)mm in size) by volume. No more than half of the coarse material may be between three (3) inches and ten (10) inches in the greatest dimension. No fragments shall be greater in size than ten (10) inches in the greatest dimension. In no case may clay material of less than two (2) microns be greater than forty percent (40%) by weight of the soil size material nor shall the sand size material of greater than fifty (50) microns be greater than sixty percent (60%) by weight of the soil size material, when clay material content is less than twenty percent (20%) by weight.

A) Rapid weathering coarse material, as determined by the Department, may be included in the root medium. If these fragments are allowed, they shall be included in the soil fraction for texture determination and shall not be included in the coarse fragment portion of texture evaluation.



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- B) These texture requirements do not apply if the soil conditions of the affected land prior to mining did not meet the standards included herein (i.e., if more than twenty percent (20%) coarse material by volume existed in the root medium below the darkened surface soil prior to mining, the same percentage of coarse material in the root medium will be allowed after mining; if more than one-half (1/2) of the coarse material consisted of rocks in the three (3) to ten (10) inch size category prior to mining, the same percentage will be permitted after mining; and if more than forty percent (40%) by weight of clay materials less than two (2) microns in size; and if more than sixty percent (60%) by weight of sand when clay material content is less than twenty percent (20%) by weight existed in the root medium below the darkened surface soil prior to mining, a like percentage by weight will be allowed after mining in the material under the darkened surface soil).
- 2) Chemical Properties. The materials under the darkened surface soil must be chemically suitable as an agricultural root medium. Toxic material capable of producing chemically unsuitable conditions shall not be incorporated within the material used to create the root zone established for these lands.
- 3) Depth. The combined vertical thickness of the darkened surface soil and the agricultural root medium must be at least four (4) feet in all cases, except where a natural rock formation occurs at shallower depths. In such case, the operator shall create a root medium of equivalent thickness to its pre-mining condition.
- 4) The darkened surface soil shall be replaced as the final earth cover on high capability lands.
- 5) Location of texture compliance samples will be determined by random methods. Texture analysis shall be determined by methods specified by the Department.
- b) The Department may alter the texture requirements under this Part only upon a clear and convincing showing that to vary such requirement would better effectuate the purposes of the Act than would enforcing the standards herein.
- c) The affected land shall be graded to the approximate original contour of the land prior to mining. For the purpose of this Part, the slope classification of lands before mining are those lettered ranges developed by the U.S. Department of Agriculture, Soil Conservation Service for use in preparing a soil survey of the area.
- d) Approximate original contour means grading of affected lands to a slope no greater than the maximum percent of the pre-mining slope range of the individual soil map units.
- e) Compaction

- 1) The agricultural root medium described in Section 1825.14(a) above shall be replaced and regraded to a uniform depth over the regraded spoil material in a manner that avoids excessive

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compaction or a compaction alleviation plan shall be provided. Excessive compaction is indicated by:

- A) Very firm, massive soil physical condition in any layer above the rooting medium depth required by subsection (a)(3) that has one-half or more of the soil volume in masses ten (10) inches or more in diameter that are not exploited by the root system;
- B) Roots restricted to a depth less than the required rooting medium depth;
- C) Confinement of roots to matrix desiccation cracks; or
- D) Flattened roots; or
- E) Other diagnostic methods approved by the Department, in consultation with the Illinois Department of Agriculture and the U.S. Department of Agriculture, Soil Conservation Service.

- 2) Compaction alleviation is required unless the permittee can demonstrate that root system development at similar depths in undisturbed soils typical of the mined area is no better than that observed in the reconstructed soil or if the permittee can demonstrate that the requirements of 62 Ill. Adm. Code 1816.116 or 1816.117, as applicable, have been met without compaction alleviation on areas reclaimed in a similar manner. However, the requirements of 62 Ill. Adm. Code 1816.116 or 1816.117 must still be met. The Department shall retain sufficient bond at the time of Phase II bond release if it determines that compaction alleviation may be needed to achieve the revegetation success requirements.

- 3) After approval of texture by the Department, the darkened surface soil shall be redistributed and graded to a uniform depth without excessive compaction over the replaced and regraded agricultural root medium.

- f) High capability lands shall have a planned erosion control system if expected soil loss from row crop production will exceed the tolerable soil loss limits as defined by "Resource Conservation Planning Technical Material-IL-4" and subsequent revisions or modifications. Terrace systems, when utilized as part of a planned erosion control system, shall be constructed according to U.S. Department of Agriculture, Soil Conservation Service specifications. Erosion control plans in compliance with this subsection shall be submitted to and approved by the Department prior to the completion of the final grading of an area, or on a time schedule approved by the Department after final grading based on seasonal factors, the extent of the area, and the sophistication of the erosion control plan.

- g) Slopes of all affected lands shall be measured from the drainage divide to the base of the slope or to the intermittent water course at the lowest point. Abrupt slope changes between these points are not acceptable except for unusual conditions such as ditches, terraces, and roads.

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- h) The length of slope and contour of the restored surface shall be conducive to those farming operations normally associated with row crop production. Farming operations as used here shall include such measures or practices necessary to provide adequate drainage and erosion control for sustained row crop production.

(Source: Amended at 19 Ill. Reg. \_\_\_\_\_, effective \_\_\_\_\_)

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## NOTICE OF PROPOSED AMENDMENTS

- 1) Heading of the Part: State Enforcement
- 2) Code Citation: 62 Ill. Adm. Code 1843
- 3) Section Number: Proposed Action:  
1843.13 Amend  
1843.23 New Section
- 4) Statutory Authority: Implementing and authorized by the Surface Coal Mining Land Conservation and Reclamation Act (Ill. Rev. Stat. 1991, ch. 96 1/2, pars. 7901.01 et seq.) [225 ILCS 720].
- 5) A complete description of the subjects and issues involved: Section 1843.13 covers suspension and revocation of permits. The Department proposes to amend this section to make it more consistent with its federal counterpart.
- New Section 1843.23 is proposed to be added, entitled "Enforcement Actions at Abandoned Sites." The proposed rule allows the Department to refrain from issuing notices of violation and cessation orders at abandoned mine sites and is consistent with its federal counterpart rule, 30 CFR 840.22, published at 59 Fed. Reg. 60876 (November 28, 1994).

- 6) Will this proposed rule replace an emergency rule currently in effect?  
No

- 7) Does this rulemaking contain an automatic repeal date? No

- 8) Do these proposed amendments contain incorporations by reference? No

- 9) Are there any other amendments pending on this Part? No

- 10) Statement of Statewide Policy Objectives: The proposed amendments will have no impacts upon local units of government.

- 11) Time, Place, and Manner in which interested persons may comment on this proposed rulemaking: Written comments may be submitted within 45 days of the publication of this notice to:

Karen Jacobs, Legal Counsel  
Illinois Department of Mines and Minerals  
300 West Jefferson, Suite 300  
Springfield, IL 62791-0137  
(217) 782-6791

Commenters must provide a name and address. Comments must be directed to a specific subsection and must be made on a separate sheet of 8 1/2 x 11

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inch paper.

Comments may include data, views, arguments or any documents relevant to the proposals noted above in the Description of Subjects and Issues involved. All comments are due at the above address no later than 45 days after the publication of this notice. Comments received thereafter will not be considered in this rulemaking.

12) Initial Regulatory Flexibility Analysis:

A) Types of small businesses affected: This rulemaking does not affect small businesses.

B) Reporting, bookkeeping or other procedures required for compliance: None

C) Types of professional skills necessary for compliance: None

13) State reason(s) for the rulemaking if it was not included in either of the two (2) most recent regulatory agendas: This rulemaking was included in the regulatory agenda published at 19 Ill. Reg. 659-684 (January 20, 1995).

The full text of the Proposed Amendments begins on the next page.

## DEPARTMENT OF MINES AND MINERALS

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## TITLE 62: MINING

## CHAPTER I: DEPARTMENT OF MINES AND MINERALS

## PART 1843

## STATE ENFORCEMENT

Section	Cessation Orders
1843.11	Informal Public Hearing
1843.12	Formal Review of Citations (Repealed)
1843.13	Temporary Injunctive Relief (Repealed)
1843.14	Inability to Comply
1843.15	Injunctive Relief (Repealed)
1843.16	Intervention (Repealed)
1843.17	Discovery (Repealed)
1843.18	Petitions for Award of Costs and Expenses Under Section 525(e) of the Federal Act
1843.19	Enforcement Actions at Abandoned Sites
1843.20	
1843.21	
1843.22	
1843.23	

**AUTHORITY:** Implementing and authorized by the Surface Coal Mining Land Conservation and Reclamation Act (Ill. Rev. Stat. 1991, ch. 96 1/2, pars. 7901.01 et seq.) [225 ILCS 720].

**SOURCE:** Adopted at 4 Ill. Reg. 37, p. 1, effective June 1, 1982; amended at 6 Ill. Reg. 1, effective June 1, 1982; amended at 6 Ill. Reg. 15024, effective December 30, 1982; codified at 8 Ill. Reg. 5932; amended at 9 Ill. Reg. 13334, effective October 10, 1985; amended at 11 Ill. Reg. 8536, effective July 1, 1987; amended at 14 Ill. Reg. 11906, effective January 1, 1991; amended at 17 Ill. Reg. 11095, effective July 1, 1993; amended at 19 Ill. Reg. \_\_\_\_\_, effective \_\_\_\_\_.

## Section 1843.13 Suspension or Revocation of Permits

## a) Requirements.

1) ~~Except as provided in subsection (b) below, the~~ The Department shall issue an order to a permittee requiring him to show cause why his permit and right to mine under the State Act should not be suspended or revoked, if the Department determines that a pattern of violations of any requirements of the Federal Act, the State Act, or 62 Ill. Adm. Code 1700 - 1850 or any permit condition exists or has existed, and that the violations were caused by the permittee willfully or through unwarranted failure to comply with those requirements or conditions. Violations by any person conducting surface coal mining operations on behalf of



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the permittee shall be attributed to the permittee, unless the permittee establishes that they were acts of deliberate sabotage.

- 2) The Department may determine that a pattern of violations exists or has existed, based upon two (2) or more inspections of the permit area within any twelve (12) month period, after considering the circumstances, including:

- A) The number of violations, cited on more than one (1) occasion, of the same or related requirements of the Federal Act, the State Act, 62 Ill. Adm. Code 1700 - 1850 or the permit;
- B) The number of violations, cited on more than one (1) occasion of different requirements of the Federal Act, the State Act, 62 Ill. Adm. Code 1700 - 1850 or the permit; and
- C) The extent to which the violations were isolated departures from lawful conduct.

- 3) ~~The Department shall determine that a pattern of violations exists if it finds that there was at least one violation of the same or related requirements of the Federal Act, the State Act, 62 Ill. Adm. Code 1700 - 1850 or the permit during each of at least three (3) State inspections within any twelve (12) month period. The Department shall promptly review the history of violations of any permittee who has been cited for violations of the same or related requirements of the Federal Act, the State Act, 62 Ill. Adm. Code 1700 through 1850 or the permit during three (3) or more State inspections of the permit area within any twelve (12) month period. If, after such review, the Department determines that a pattern of violations exists or has existed, an order to show cause as provided in subsection (a)(1) above shall be issued.~~

## 4) Considerations.

- A) In determining the number of violations within any twelve (12) month period, the Department shall consider only violations issued as a result of a State inspection carried out:

- i) During the permanent regulatory program; or
- ii) During the interim regulatory program and before the applicable State program was approved, pursuant to Section 502 or 504 of the Federal Act.

- B) The Department may not consider violations issued as a result of inspections other than those mentioned in subsection (a)(4)(A)(i) above in determining whether to exercise discretion under subsection (a)(2) above.

- b) ~~The Department may decline to issue a show cause order or may vacate an outstanding show cause order if it finds that taking into account exceptional factors present in the particular case it would be demonstrably unjust to issue or to fail to vacate the show cause order. The basis for this finding shall be fully explained and documented in the records of the case.~~

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- e) ~~b)~~ Whenever a permittee fails to abate a violation contained in a notice of violation or a cessation order within the abatement period set in the notice or order or as subsequently extended, the Supervisor of the Department's Land Reclamation Division shall review the permittee's history of violations to determine whether a pattern of violations exists pursuant to this Section, and shall issue as appropriate an order to show cause, which shall be subject to a hearing under 62 Ill. Adm. Code 1847.6.

- e) ~~c)~~ At the same time as the issuance of the order, the Department shall:

- 1) If practicable, publish notice of the order, including a brief statement of the procedure for intervention in the proceeding, in a newspaper of general circulation in the area of the surface coal mining and reclamation operations; and
- 2) Post the notice at the regional, district or field office closest to the area of the surface coal mining and reclamation operation.

- e) ~~d)~~ The permittee shall have thirty (30) days from the completion of service of a show cause order in which to file an answer and request a hearing in accordance with 62 Ill. Adm. Code 1847.6.

- e) ~~e)~~ If the Department revokes or suspends the permit and the permittee's right to mine the permittee shall immediately cease surface coal mining operations on the permit area and shall:

- 1) If the permit and the right to mine are revoked, complete reclamation within the time specified in the order; or
- 2) If the permit and the right to mine are suspended, complete all affirmative obligations to abate all conditions, practices, or violations, as specified in the order.

(Source: Amended at 19 Ill. Reg. \_\_\_\_\_, effective \_\_\_\_\_)

## Section 1843.23 Enforcement Actions at Abandoned Sites

The Department may refrain from issuing a notice of violation or cessation order for a violation at an abandoned site, as defined in 62 Ill. Adm. Code 1840.11(g), if abatement of the violation is required under any previously issued notice or order.

(Source: Added at 19 Ill. Reg. \_\_\_\_\_, effective \_\_\_\_\_)

## DEPARTMENT OF MINES AND MINERALS

## NOTICE OF PROPOSED AMENDMENTS

1) Heading of the Part: Surface Mining Permit Application -- Minimum Requirements for Reclamation and Operation Plan

2) Code Citation: 62 Ill. Adm. Code 1780

3) Section Number:  
1780.23  
Proposed Action:  
Amend

4) Statutory Authority: Implementing and authorized by the Surface Coal Mining Land Conservation and Reclamation Act (Ill. Rev. Stat. 1991, ch. 96 1/2, pars. 7901.01 et seq.) [225 ILCS 720].

5) A complete description of the subjects and issues involved: Section 1780.23 sets forth reclamation plan requirements and is being reorganized and amended for consistency with federal counterpart rules at 59 Fed. Reg. 27932 (May 27, 1994). Many of the proposed changes were taken from Section 1779.25, portions of which are being deleted in this rulemaking.

6) Will this proposed rule replace an emergency rule currently in effect?  
No

7) Does this rulemaking contain an automatic repeal date? No

8) Do these proposed amendments contain incorporations by reference? No

9) Are there any other amendments pending on this Part? No

10) Statement of Statewide Policy Objectives: The proposed amendments will have no impacts upon local units of government.

11) Time, Place, and Manner in which interested persons may comment on this proposed rulemaking: Written comments may be submitted within 45 days of the publication of this notice to:

Karen Jacobs, Legal Counsel  
Illinois Department of Mines and Minerals  
300 West Jefferson, Suite 300  
Springfield, IL 62791-0137  
(217) 782-6791

Commenters must provide a name and address. Comments must be directed to a specific subsection and must be made on a separate sheet of 8 1/2 x 11 inch paper.

Comments may include data, views, arguments or any documents relevant to the proposals noted above in the Description of Subjects and Issues involved. All comments are due at the above address no later than 45 days after the publication of this notice. Comments received thereafter will

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not be considered in this rulemaking.

12) Initial Regulatory Flexibility Analysis:

A) Types of small businesses affected: This rulemaking does not affect small businesses.

B) Reporting, bookkeeping or other procedures required for compliance:  
None

C) Types of professional skills necessary for compliance: None

13) State reason(s) for the rulemaking if it was not included in either of the two (2) most recent regulatory agendas: This rulemaking was included in the regulatory agenda published at 19 Ill. Reg. 659-684 (January 20, 1995).

The full text of the Proposed Amendments begins on the next page.

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a) Each plan shall contain a detailed description of the proposed user following reclamation of the land within the proposed permit area including a discussion of the utility and capacity of the reclaimed land to support a variety of alternative uses and the relationship of the proposed use to existing land use policies and plans. This description shall explain:

1) How the proposed post-mining land use is to be achieved and the necessary support activities which may be needed to achieve the proposed land use;

2) Where grazing is the proposed post-mining user the detailed management plans to be implemented, if any;

3) Where a land use is different from the pre-mining land use is proposed, alternative post-mining land uses may be approved by the Department after considering the relationship of the intended uses to existing land use policies and plans and the comments of any owner of the surface and land management agency having jurisdiction over the land;

4) The consideration which has been given to making all of the proposed surface mining activities consistent with surface owner plans and applicable State and local land use plans and programs.

b) The description shall be accompanied by a copy of the comments concerning the proposed use by the legal or equitable owner of record of the surface of the proposed permit area and the State and local government agencies which would have to initiate implementation or authorize the proposed use of the land following reclamation.

a) Pre-mining information. The application shall contain a statement of the condition, capability, and productivity of the land within the proposed permit area, including:

1) A map and supporting narrative of the uses of the land existing at the time of the filing of the application. If the pre-mining use of the land was changed within five (5) years before the anticipated date of beginning the proposed operations, the historic use of the land shall also be described. In the case of previously mined land, the use of the land prior to any mining shall also be described to the extent such information is available.

2) A narrative of land capability and productivity, which analyzes the land use description under subsection (a) above, in conjunction with other environmental resources information required under this Part. The narrative shall provide analyses of:

A) The capability of the land before any mining to support a variety of uses, giving consideration to soil and foundation characteristics, topography, vegetative cover and the hydrology of the proposed permit area; and

B) The productivity of the proposed permit area before mining, expressed as average yield of food, fiber, forage or wood products from such lands obtained under high levels of

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TITLE 62: MINING  
CHAPTER I: DEPARTMENT OF MINES AND MINERALS

PART 1780  
SURFACE MINING PERMIT APPLICATION--MINIMUM  
REQUIREMENTS FOR RECLAMATION AND OPERATION PLAN

- Section 1780.4 Responsibilities
- 1780.5 Use of Existing Data
- 1780.6 Use of Expert Opinion
- 1780.11 Operation Plan: General Requirements
- 1780.12 Operation Plan: Existing Structures
- 1780.13 Operation Plan: Blasting
- 1780.14 Operation Plan: Maps and Plans
- 1780.15 Air Pollution Control Plan
- 1780.16 Fish and Wildlife Plan
- 1780.18 Reclamation Plan: General Requirements
- 1780.21 Hydrologic Information
- 1780.22 Geologic Information
- 1780.23 Reclamation Plan: Post-Mining Land-Uses Pre-Mining and Post-Mining Information

- 1780.25 Reclamation Plan: Ponds, Impoundments, Banks, Dams, and Embankments
- 1780.27 Reclamation Plan: Surface Mining Near Underground Mining Divisions
- 1780.29 Divisions
- 1780.31 Protection of Public Parks and Historic Places
- 1780.33 Relocation or Use of Public Roads
- 1780.35 Disposal of Excess Spoil
- 1780.37 Transportation Facilities
- 1780.38 Rehabilitation of Siltation Structures, Diversions, Impoundments, and Treatment Facilities (Repealed)
- 1780.39 Support Facilities

AUTHORITY: Implementing and authorized by the Surface Coal Mining Land Conservation and Reclamation Act (Ill. Rev. Stat. 1991, ch. 96 1/2, pars. 7901.01 et seq.) (225 ILCS 720).

SOURCE: Adopted at 4 Ill. Reg. 37, p. 1, effective June 1, 1982; amended at 6 Ill. Reg. 1, effective June 1, 1982; codified at 8 Ill. Reg. 8511; amended at 11 Ill. Reg. 8602, effective July 1, 1987; amended at 14 Ill. Reg. 11911, effective January 1, 1991; amended at 15 Ill. Reg. 17294, effective January 1, 1992; amended at 17 Ill. Reg. 11122, effective July 1, 1993; amended at 19 Ill. Reg. \_\_\_\_\_, effective \_\_\_\_\_.

Section 1780.23 Reclamation Plan: Post-Mining Land-Uses Pre-Mining and Post-Mining Information



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management. The productivity shall be determined by yield data or estimates for similar sites based on current data from the U.S. Department of Agriculture, State agricultural universities or appropriate State natural resource or agricultural agencies.

- 3) A soils map of medium intensity prepared to the specifications of the Soil Conservation Service or a contoured aerial photo with a scale of not smaller than 1"=400' and contour interval of not greater than ten (10) feet.

- b) Post-mining information. Each plan shall contain a detailed description of the proposed use, following reclamation, of the land within the proposed permit area, including a discussion of the utility and capacity of the reclaimed land to support a variety of alternative uses, and the relationship of the proposed use to existing land use policies and plans. This description shall explain:

- 1) How the proposed post-mining land use is to be achieved and the necessary support activities which may be needed to achieve the proposed land use;

- 2) Where a land use different from the pre-mining land use is proposed, all materials needed for approval of the alternative use under 62 Ill. Adm. Code 1816.133; and

- 3) The consideration which has been given to making all of the proposed surface mining activities consistent with surface owner plans and applicable State and local land use plans and programs.

- c) The description shall be accompanied by a copy of the comments concerning the proposed use by the legal or equitable owner of record of the surface of the proposed permit area and the State and local government agencies which would have to initiate, implement, approve or authorize the proposed use of the land following reclamation.

(Source: Amended at 19 Ill. Reg. \_\_\_\_\_, effective \_\_\_\_\_)

## DEPARTMENT OF MINES AND MINERALS

## NOTICE OF PROPOSED AMENDMENTS

- 1) Heading of the Part: Surface Mining Permit Applications - Minimum Requirements for Information on Environmental Resources

- 2) Code Citation: 62 Ill. Adm. Code 1779

- 3) Section Number: Proposed Action:  
1779.22 Repealed  
1779.25 Amend

- 4) Statutory Authority: Implementing and authorized by the Surface Coal Mining Land Conservation and Reclamation Act (Ill. Rev. Stat. 1991, ch. 96 1/2, pars. 7901.01 et seq.) [225 ILCS 720].

- 5) A complete description of the subjects and issues involved: Section 1779.22, which sets forth land use information to be included in a permit application, is proposed to be repealed and reorganized at Section 1780.23, consistent with federal rule changes at 59 Fed. Reg. 27932 (May 27, 1994).

Section 1779.25 specifies certain information required to be included in a permit application. Subsections (a)(1)(A), (B) and (C) are proposed to be deleted because they are redundant of Section 1777.14. Subsection (a)(1)(D) is proposed to be relocated to Section 1780.23. The proposed changes are consistent with counterpart federal regulations at 59 Fed. Reg. 27932 (May 27, 1994).

Statutory citations in Section 1779.25(b) are proposed to be updated.

- 6) Will this proposed rule replace an emergency rule currently in effect? No

- 7) Does this rulemaking contain an automatic repeal date? No

- 8) Do these proposed amendments contain incorporations by reference? No

- 9) Are there any other amendments pending on this Part? No

- 10) Statement of Statewide Policy Objectives: The proposed amendments will have no impacts upon local units of government.

- 11) Time, Place, and Manner in which interested persons may comment on this proposed rulemaking: Written comments may be submitted within 45 days of the publication of this notice to:

Karen Jacobs, Legal Counsel  
Illinois Department of Mines and Minerals  
300 West Jefferson, Suite 300  
Springfield, IL 62791-0137  
(217) 782-6791

## DEPARTMENT OF MINES AND MINERALS

## NOTICE OF PROPOSED AMENDMENTS

Commenters must provide a name and address. Comments must be directed to a specific subsection and must be made on a separate sheet of 8 1/2 x 11 inch paper. Comments may include data, views, arguments or any documents relevant to the proposals noted above in the Description of Subjects and issues involved. All comments are due at the above address no later than 45 days after the publication of this notice. Comments received thereafter will not be considered in this rulemaking.

12) Initial Regulatory Flexibility Analysis:

- A) Types of small businesses affected: This rulemaking does not affect small businesses.
- B) Reporting, bookkeeping or other procedures required for compliance:  
None
- C) Types of professional skills necessary for compliance: None

- 13) State reason(s) for the rulemaking if it was not included in either of the two (2) most recent regulatory agendas: This rulemaking was included in the regulatory agenda published at 19 Ill. Reg. 659-684 (January 20, 1995).

The full text of the Proposed Amendments begins on the next page.

## DEPARTMENT OF MINES AND MINERALS

## NOTICE OF PROPOSED AMENDMENTS

## TITLE 62: MINING

## CHAPTER I: DEPARTMENT OF MINES AND MINERALS

## PART 1779

SURFACE MINING PERMIT APPLICATIONS - MINIMUM REQUIREMENTS  
FOR INFORMATION ON ENVIRONMENTAL RESOURCES

## Section

- 1779.4 Responsibilities
- 1779.5 Use of Existing Data
- 1779.6 Use of Expert Opinion
- 1779.7 Seasonal Water Quality Data (Repealed)
- 1779.11 General Requirements
- 1779.12 General Environmental Resources Information
- 1779.13 Description of Hydrology and Geology: General Requirements (Repealed)
- 1779.14 Geology Description (Repealed)
- 1779.15 Ground Water Information (Repealed)
- 1779.16 Surface Water Information (Repealed)
- 1779.17 Alternative Water Supply Information (Repealed)
- 1779.19 Vegetation Information
- 1779.20 Fish and Wildlife Resources Information (Repealed)
- 1779.21 Soil Resources Information
- 1779.22 Land Use Information (Repealed)
- 1779.24 Maps: General Requirements
- 1779.25 Cross Sections, Maps and Plans
- 1779.27 Prime Farmland Investigation (Repealed)

**AUTHORITY:** Implementing and authorized by the Surface Coal Mining Land Conservation and Reclamation Act (Ill. Rev. Stat. 1991, ch. 96 1/2, pars. 7901.01 et seq.) [225 ILCS 720].

**SOURCE:** Adopted at 4 Ill. Reg. 37, p. 1, effective June 1, 1982; amended at 6 Ill. Reg. 1, effective June 1, 1982; codified at 8 Ill. Reg. 10013; amended at 11 Ill. Reg. 8585, effective July 1, 1987; amended at 14 Ill. Reg. 11924, effective January 1, 1991; amended at 17 Ill. Reg. 11118, effective July 1, 1993; amended at 19 Ill. Reg. \_\_\_\_\_, effective \_\_\_\_\_.

## Section 1779.22 Land Use Information (Repealed)

- a) ~~The application shall contain a statement of the condition capability and productivity of the land within the proposed permit area including:~~
- 1) ~~A map and supporting narrative of the use of the land existing at the time of the filing of the application if the permitting use of the land was changed within five (5) years before the anticipated date of beginning the proposed operation; the historic use of the land shall also be described.~~

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- 2) A--narrative--of--land--capability--and--productivity--which--analyzes the--land--use--description--under--subsection--(a)--in--conjunction--with other--environmental--resources--information--required--under--this Part--The--narrative--shall--provide--analyses--of:
- A) The--capability--of--the--land--before--any--mining--to--support--a variety--of--uses--giving--consideration--to--soil--and--foundation characteristics--topography--vegetative--cover--and--the hydrology--of--the--proposed--permit--area--and
- B) The--productivity--of--the--total--area--before--mining--expressed as--average--yield--of--food--fiber--forage--or--wood--products from--such--lands--obtained--under--high--levels--of--management. The--productivity--shall--be--determined--by--yield--data--or estimates--for--similar--sites--based--on--current--data--from--the U.S.--Department--of--Agriculture--State--agricultural universities--or--appropriate--State--natural--resource--or agricultural--agencies.
- b) The--application--shall--state--whether--the--proposed--permit--area--contains land--previously--mined--or--distributed--by--mining--and--if--so--the following--information--if--available:
- 1) The--type--of--mining--methods--used.
- 2) The--coal--seams--or--other--minerals--strata--mined.
- 3) The--extent--of--coal--or--other--minerals--removed.
- 4) The--approximate--dates--of--past--mining.
- 5) The--uses--of--the--land--preceding--mining.
- c) The--application--shall--contain--a--description--of--the--existing--land--uses and--land--use--classifications--under--local--law--if--any--of--the--proposed permit--and--adjacent--areas.

(Source: Repealed at 19 Ill. Reg. \_\_\_\_\_, effective \_\_\_\_\_.)

## Section 1779.25 Cross Sections, Maps and Plans

- a) The application shall include cross sections, maps, and plans showing:
- 1) Elevations and locations of test borings and core samplings;
  - 2) Elevations and locations of monitoring stations used to gather data for water quality and quantity, fish and wildlife, and air quality, if required, in preparation of the application;
  - 3) Nature, depth, and thickness of the coal seams to be mined, any coal or rider seams above the seam to be mined, each stratum of the overburden, and the stratum immediately below the lowest coal seam to be mined;
  - 4) All coal crop lines and the strike and dip of the coal to be mined within the proposed permit area;
  - 5) Location and extent of known workings of active, inactive, or abandoned underground mines, including mine openings to the surface within the proposed permit and adjacent areas;
  - 6) Location and extent of subsurface water, if encountered, within

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- the proposed permit or adjacent areas:
- 7) Location of surface water bodies such as streams, lakes, ponds, springs, constructed or natural drains, and irrigation ditches within the proposed permit and adjacent areas;
- 8) Location and extent of existing or previously surface-mined areas within the proposed permit area;
- 9) Location, and dimensions of existing areas of spoil, waste, and noncoal waste disposal, dams, embankments, other impoundments, and water treatment and air pollution control facilities within the proposed permit area;
- 10) Location, and depth if available, of gas and oil wells within the proposed permit area and water wells in the permit area and adjacent area.
- 11) Sufficient--slope--measurements--to--adequately--represent--the existing--land--surface--configuration--of--the--proposed--permit--area--measured--and--recorded--according--to--the--following:
- A) Each measurement shall consist of an angle of inclination along the prevailing slope extending one hundred feet beyond the linear feet above and below or beyond the coal outcrop--the area to be disturbed or where this is impracticable--at locations specified by the Department.
- B) Where the area has been previously mined, the measurements shall extend at least one hundred feet beyond the limits of mining disturbances, or any other distance determined by the Department to be representative of the prevailing configuration of the land.
- C) Slope measurements shall take into account natural variations in slope to provide accurate representation of the range of natural slopes and reflect geomorphic differences of the area to be disturbed.
- B) A--soils--map--of--medium--intensity--prepared--to--SSS specifications--or--a--contoured--aerial--photo--with--a--scale--of--not--smaller--than--1:4000--and--contour--interval--of--not--greater--than--ten--(10)--feet.
- b) Maps, plans, and cross-sections included in a permit application which are required by this Section shall be prepared by, or under the direction of, and sealed by a qualified registered professional engineer licensed under the Illinois Professional Engineering Act (1989-Stat--1989--ch--117--par--518--5137) the Professional Engineering Practice Act of 1989 [225 ILCS 325] or a registered professional land surveyor licensed under the Illinois Land Surveyors Act (1989-Stat--1989--ch--117--par--320--3234) the Illinois Professional Land Surveyor Act of 1989 [225 ILCS 330] with assistance from experts in related fields such as geology and landscape architecture and shall be updated as required by the Department.

(Source: Amended at 19 Ill. Reg. \_\_\_\_\_, effective \_\_\_\_\_.)



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1) Heading of the Part: Training, Examination and Certification of Blasters

2) Code Citation: 62 Ill. Adm. Code 1850

3) Section Number: Proposed Action:

1850.13 Amend

1850.14 Amend

1850.15 Amend

1850.16 Amend

1850.17 Repeal

4) Statutory Authority: Implementing and authorized by the Surface Coal Mining Land Conservation and Reclamation Act (Ill. Rev. Stat. 1991, ch. 96 1/2, pars. 7901.01 et seq.) [225 ILCS 720].

5) A complete description of the subjects and issues involved: 62 Ill. Adm. Code Part 1850 sets forth requirements for training, examination and certification of blasters. Various stylistic changes and corrections are proposed in Sections 1850.13, 1850.14, 1850.15 and 1850.16. In addition, Section 1850.14(a) and (b) are proposed to be amended to allow notification of examinations to be done by telephone in those cases where it is not possible to give such notice in writing within the time specified in the rule. Section 1850.15(a) is proposed to be amended by shortening the deadlines for receipt and review of applications. Subsection (a) is also proposed to be amended by giving the Department some flexibility for scheduling applicants who are late in submitting their applications. Section 1850.17, entitled "Judicial Review", is proposed to be repealed as it is covered elsewhere in the regulations applicable to this Part.

6) Will this proposed rule replace an emergency rule currently in effect? No

7) Does this rulemaking contain an automatic repeal date? No

8) Do these proposed amendments contain incorporations by reference? No

9) Are there any other amendments pending on this Part? No

10) Statement of Statewide Policy Objectives: The proposed amendments will have no impacts upon local units of government.

11) Time, Place, and Manner in which interested persons may comment on this proposed rulemaking: Written comments may be submitted within 45 days of the publication of this notice to:

Karen Jacobs, Legal Counsel  
Illinois Department of Mines and Minerals  
300 West Jefferson, Suite 300

## DEPARTMENT OF MINES AND MINERALS

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Springfield, IL 62791-0137

(217) 782-6791

Commentors must provide a name and address. Comments must be directed to a specific subsection and must be made on a separate sheet of 8 1/2 x 11 inch paper. Comments may include data, views, arguments or any documents relevant to the proposals noted above in the Description of Subjects and Issues involved. All comments are due at the above address no later than 45 days after publication of this notice. Comments received thereafter will not be considered in this rulemaking.

12) Initial Regulatory Flexibility Analysis:

A) Types of small businesses affected: This rulemaking does not affect small businesses.

B) Reporting, bookkeeping or other procedures required for compliance: None

C) Types of professional skills necessary for compliance: None

13) State reason(s) for the rulemaking if it was not included in either of the two (2) most recent regulatory agendas: This rulemaking was included in the regulatory agenda published at 19 Ill. Reg. 659-684 (January 20, 1995).

The full text of the Proposed Amendments begins on the next page.

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TITLE 62: MINING  
CHAPTER I: DEPARTMENT OF MINES AND MINERALS

## PART 1850

## TRAINING, EXAMINATION AND CERTIFICATION OF BLASTERS

Section	Definition
1850.5	Applicability
1850.12	Training
1850.13	Examination
1850.14	Application and Certification
1850.15	Denial, Issuance of Notice of Infraction, Suspension, Revocation, and Other Administrative Actions
1850.16	Judicial Review [Repealed]
1850.17	

**AUTHORITY:** Implementing and authorized by Surface Mining Control and Reclamation Act of 1977 (30 U.S.C. 1201 et seq.; and 30 CFR 816, 817 and 850) and the Surface Coal Mining Land Conservation and Reclamation Act (Ill. Rev. Stat. 1991, ch. 96 1/2, pars. 7901.01 et seq.) (225 ILCS 720).

**SOURCE:** Adopted at 10 Ill. Reg. 3018, effective March 15, 1986; amended at 19 Ill. Reg. \_\_\_\_\_, effective \_\_\_\_\_.

## Section 1850.13 Training

a) Training required herein, for those ~~person~~ persons not previously trained in the subjects required herein, shall be conducted by the operator or his representative. The operator's representative may include, but is not limited to junior colleges, consultants, and explosives manufacturers. The training must meet the requirements of this Section.

b) The training for blasters certification shall include instruction in:

- 1) The design and layout of blasts, including geology, topography and the proper use of delays.
- 2) Control of ground vibration.
- 3) Control of flyrock and air blast.
- 4) Design and loading of boreholes.
- 5) Priming and boosting.
- 6) Tamping and stemming, including methods and materials.
- 7) Blast initiation systems.
- 8) The use of blasting machines.
- 9) The use of circuit testing equipment.
- 10) The general properties of explosives, including blasting agents, and selection criteria.
- 11) Ground vibration, air blast and monitoring.
- 12) The use of ground vibration and air blast records as blast design factors.

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13) The need for accurate reports and blasting logs and their proper preparation.

14) Current Illinois and Federal law and regulation pertaining to blasting at the mine site, including 62 Ill. Adm. Code 1780.13, 1816.11(f), 1816.61 to 1816.68, 1817.61 to 1817.68; this Part; 62 Ill. Adm. Code 220.130; ~~an Act regulating the manufacture, possession, storage, transportation, use, sale, or gift of explosives, 1939 Ill. Laws 508 as amended, with Rev. Stat. 1903 ch. 96-172, pars. 1-101, the Illinois Explosives Act [225 ILCS 210]; 30 CFR 816.61 to 816.68 (1985), (48 Fed. Reg. 9806-9807, 9492, 9809, 44780 (1983)) 817.61 to 817.68 (1985), 48 Fed. Reg. 9809-9811, 9492, 44781 (1983), 30 CFR Part 850 and Subpart 950 (1985), 48 Fed. Reg. 9492 (1983); 30 CFR 56.6000--56.6250 (1995), 50 Fed. Reg. 5040 (1985), 30 CFR 57.6000--57.6250 (1985), 50 Fed. Reg. 4082 (1985), 36 Fed. Reg. 9634 (1971); 43 Fed. Reg. 12320 (1978).~~

15) Planning for unpredictable blasting hazards to the public and mine personnel. Illustrative example are adverse weather, stray electrical currents, flyrock, radio frequency energy, and misfires.

16) Signs, warning signals and control of the potential flyrock area.

17) Blasting plan requirements.

18) Pre-blast and condition surveys and their use in blast design.

19) Required blasting notices.

20) Training and certification requirements.

21) Handling, transportation and storage of explosives.

22) New technology as it develops and is implemented in the field. The Department shall advise operators of new technology which should be included in future training programs.

c) The blaster shall provide direction and on-the-job training to all non-certified blasting personnel under his supervision.

(Source: Amended at 19 Ill. Reg. \_\_\_\_\_, effective \_\_\_\_\_)

## Section 1850.14 Examination

a) Written examinations for blaster certification shall be administered at least semi-annually, but not more than quarterly, on dates, times, and at locations announced by the Department via news releases, and direct communication with operators and individuals who request in writing to be so notified. Such notification shall be made at least sixty (60) days prior to the scheduled date of the examination. All persons scheduled for a regular examination session will be so notified ~~in writing~~ at least one (1) week prior to the scheduled exam date.

b) Reexaminations shall be scheduled, if needed, for those persons who do not pass the regularly scheduled examination. The reexamination shall

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be scheduled approximately forty-five (45) days after each regular examination. The Department shall also allow for examination at this time those persons who have newly applied for certification at least thirty (30) days prior to the scheduled reexamination date. All persons scheduled for examination or reexamination during the reexamination session will be so notified by letter at least one (1) week prior to the scheduled reexamination session.

c) If the applicant cannot attend the examination or reexamination session for which he or she is scheduled, the applicant shall so inform the Department at least one (1) day in advance of the examination date. Failure to do so will result in the application being rejected, and the applicant having to reapply for certification. Any person who cannot attend such a session and who informs the Department in accordance with this Section will be scheduled for the next examination or reexamination session.

d) Applicants for blaster certification shall be examined in the topics set forth in Section 1850.13(b).

(Source: Amended at 19 Ill. Reg. \_\_\_\_\_, effective \_\_\_\_\_)

## Section 1850.15 Application and Certification

a) Each applicant shall submit a completed application for certification on forms supplied by the Department. In order to be scheduled for the next examination session, the application must be received by the Department not less than ~~forty-five (45)~~ thirty (30) days prior to that examination date. The Department shall review each application promptly and complete the review of each application not less than ~~thirty (30)~~ fifteen (15) days following the date of receipt of the application. Any applicant whose completed application has been received, reviewed and accepted by the Department more than fifteen (15) days prior to a regularly scheduled examination session shall be scheduled for that session. Any applicant whose application has been received, reviewed, and accepted less than fifteen days before a regularly scheduled session ~~will~~ may be included with the next regularly scheduled session or the next reexamination session. The following documents shall be included with the completed application form:

- 1) A notarized statement from the applicant's employer or other person, including, but not limited to a certified blaster or fellow employee, having personal knowledge of the applicant's blasting experience, and affirming that the applicant has had at least two (2) years' blasting experience.
- 2) Proof that the applicant has successfully completed a blaster training course or courses that cover the material listed in Section 1850.13(b).

b) The Department shall review each application, including required

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documents, for completeness and the accuracy of the statements contained in the application and required documents. The Department's acceptance of an application shall be based on the applicant's compliance with the requirements of this Part.

c) Each applicant shall be required to pass a written examination established by the Department. The examination shall be based on the requirements of Section 1850.13(b). The minimum passing score shall be seventy percent (70%) correct answers. The Department retains the sole right to determine whether any or all responses to examination questions are correct.

d) Any applicant whose application is denied shall be so informed in writing, within thirty (30) days of the date the applicant is found to be not qualified. Reason(s) for such denial shall be included with the notification. Each applicant who meets the requirements of subsection (a) above and who passes the examination required in subsection (b) above shall be issued a blaster certificate as soon as practicable thereafter, but not more than forty-five (45) days after the examination date. Any applicant who meets the requirements of Section 1850.15(a), but who does not pass the examination, shall be so notified within fifteen (15) days of the examination date. That person may, upon written request, review his or her examination at the Department's Springfield office. Such request must be made and the review completed not less than ten (10) days prior to the reexamination date for which the applicant is scheduled. The review must be done during the Department's regular business hours. Any person who does not pass the examination shall be scheduled for the next reexamination session, pursuant to Section 1850.14(b).

e) An employed blaster shall have readily available for inspection his or her certificate at the mine site.

f) A temporary blaster certificate will be issued to any individual who applies to the Department for such certification and who provides a photocopy of his or her valid blaster certificate issued in another state with an Office of Surface Mining approved certification program, or the name of the state where the certificate was issued and the certificate number. The period of the temporary blaster certificate shall not exceed six months from the date of issuance. Such a temporary certificate shall be issued only once to any individual in any continuous five (5) year period.

g) Each certificate shall be valid for five (5) years from the date of issuance. Recertification following expiration shall be in accordance with the application, examination, and certification requirements of this Part.

h) Blaster certification shall not be assigned or transferred.

i) Blasters shall not delegate their responsibility to any individual who is not a certified blaster.

j) The blaster shall take reasonable precaution to protect his or her certificate from loss, theft or unauthorized duplication. Such loss, theft or duplication shall be reported to the Department without



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delay.

(Source: Amended at 19 \_\_\_\_ Ill. Reg. \_\_\_\_\_, effective \_\_\_\_\_)

## Section 1850.16 Denial, Issuance of Notice of Infraction, Suspension, Revocation, and other Administrative Actions

- a) The Department shall deny an application for, or revoke or suspend a certificate under the provisions of this Section if the Department finds that the applicant or certificate is, or was at the time of application or issuance, a person convicted of a felony under the laws of this or any other jurisdiction within the prior five (5) years, or who has been a patient in a mental institution within the prior five (5) years. The Department, when determining whether to revoke or suspend and when determining the length of a suspension, shall in addition to other factors, consider the nature of the felony of which the applicant was convicted, or the condition for which the applicant was confined to a mental institution, as well as the length of time since the conviction or confinement.
- b) Notice of Infraction
- 1) The Department shall, when in the best interest of protecting public safety and public and private property, issue to the blaster a written notice of infraction, requiring remedial action, when, on the basis of any inspection, the Department determines that the blaster has committed any of the following infractions:
- A) Noncompliance with State-Act Section 3.13 of the State Act [225 ILCS 720/3.13], or 62 Ill. Adm. Code 1780.13, 1816.11(f), 1816.61 to 1816.68, 1817.61 to 1817.68, or this Part, or 62 Ill. Adm. Code 220.130, or an Act regulating the manufacture, possession, storage, transportation, use, sale, or gift of explosives, 1939-III-Baws-539-as-amended, 111-Rev-Stat-1993-ch-96-1/27-par-400 of the Illinois Explosives Act [225 ILCS 210], or 30 CFR 816.61 to 816.68, 816.69, 816.70, 816.71, 816.72, 816.73, 816.74, 816.75, 816.76, 816.77, 816.78, 816.79, 816.80, 816.81, 816.82, 816.83, 816.84, 816.85, 816.86, 816.87, 816.88, 816.89, 816.90, 816.91, 816.92, 816.93, 816.94, 816.95, 816.96, 816.97, 816.98, 816.99, 817.01, 817.02, 817.03, 817.04, 817.05, 817.06, 817.07, 817.08, 817.09, 817.10, 817.11, 817.12, 817.13, 817.14, 817.15, 817.16, 817.17, 817.18, 817.19, 817.20, 817.21, 817.22, 817.23, 817.24, 817.25, 817.26, 817.27, 817.28, 817.29, 817.30, 817.31, 817.32, 817.33, 817.34, 817.35, 817.36, 817.37, 817.38, 817.39, 817.40, 817.41, 817.42, 817.43, 817.44, 817.45, 817.46, 817.47, 817.48, 817.49, 817.50, 817.51, 817.52, 817.53, 817.54, 817.55, 817.56, 817.57, 817.58, 817.59, 817.60, 817.61, 817.62, 817.63, 817.64, 817.65, 817.66, 817.67, 817.68, 817.69, 817.70, 817.71, 817.72, 817.73, 817.74, 817.75, 817.76, 817.77, 817.78, 817.79, 817.80, 817.81, 817.82, 817.83, 817.84, 817.85, 817.86, 817.87, 817.88, 817.89, 817.90, 817.91, 817.92, 817.93, 817.94, 817.95, 817.96, 817.97, 817.98, 817.99, 818.01, 818.02, 818.03, 818.04, 818.05, 818.06, 818.07, 818.08, 818.09, 818.10, 818.11, 818.12, 818.13, 818.14, 818.15, 818.16, 818.17, 818.18, 818.19, 818.20, 818.21, 818.22, 818.23, 818.24, 818.25, 818.26, 818.27, 818.28, 818.29, 818.30, 818.31, 818.32, 818.33, 818.34, 818.35, 818.36, 818.37, 818.38, 818.39, 818.40, 818.41, 818.42, 818.43, 818.44, 818.45, 818.46, 818.47, 818.48, 818.49, 818.50, 818.51, 818.52, 818.53, 818.54, 818.55, 818.56, 818.57, 818.58, 818.59, 818.60, 818.61, 818.62, 818.63, 818.64, 818.65, 818.66, 818.67, 818.68, 818.69, 818.70, 818.71, 818.72, 818.73, 818.74, 818.75, 818.76, 818.77, 818.78, 818.79, 818.80, 818.81, 818.82, 818.83, 818.84, 818.85, 818.86, 818.87, 818.88, 818.89, 818.90, 818.91, 818.92, 818.93, 818.94, 818.95, 818.96, 818.97, 818.98, 818.99, 819.01, 819.02, 819.03, 819.04, 819.05, 819.06, 819.07, 819.08, 819.09, 819.10, 819.11, 819.12, 819.13, 819.14, 819.15, 819.16, 819.17, 819.18, 819.19, 819.20, 819.21, 819.22, 819.23, 819.24, 819.25, 819.26, 819.27, 819.28, 819.29, 819.30, 819.31, 819.32, 819.33, 819.34, 819.35, 819.36, 819.37, 819.38, 819.39, 819.40, 819.41, 819.42, 819.43, 819.44, 819.45, 819.46, 819.47, 819.48, 819.49, 819.50, 819.51, 819.52, 819.53, 819.54, 819.55, 819.56, 819.57, 819.58, 819.59, 819.60, 819.61, 819.62, 819.63, 819.64, 819.65, 819.66, 819.67, 819.68, 819.69, 819.70, 819.71, 819.72, 819.73, 819.74, 819.75, 819.76, 819.77, 819.78, 819.79, 819.80, 819.81, 819.82, 819.83, 819.84, 819.85, 819.86, 819.87, 819.88, 819.89, 819.90, 819.91, 819.92, 819.93, 819.94, 819.95, 819.96, 819.97, 819.98, 819.99, 820.01, 820.02, 820.03, 820.04, 820.05, 820.06, 820.07, 820.08, 820.09, 820.10, 820.11, 820.12, 820.13, 820.14, 820.15, 820.16, 820.17, 820.18, 820.19, 820.20, 820.21, 820.22, 820.23, 820.24, 820.25, 820.26, 820.27, 820.28, 820.29, 820.30, 820.31, 820.32, 820.33, 820.34, 820.35, 820.36, 820.37, 820.38, 820.39, 820.40, 820.41, 820.42, 820.43, 820.44, 820.45, 820.46, 820.47, 820.48, 820.49, 820.50, 820.51, 820.52, 820.53, 820.54, 820.55, 820.56, 820.57, 820.58, 820.59, 820.60, 820.61, 820.62, 820.63, 820.64, 820.65, 820.66, 820.67, 820.68, 820.69, 820.70, 820.71, 820.72, 820.73, 820.74, 820.75, 820.76, 820.77, 820.78, 820.79, 820.80, 820.81, 820.82, 820.83, 820.84, 820.85, 820.86, 820.87, 820.88, 820.89, 820.90, 820.91, 820.92, 820.93, 820.94, 820.95, 820.96, 820.97, 820.98, 820.99, 821.01, 821.02, 821.03, 821.04, 821.05, 821.06, 821.07, 821.08, 821.09, 821.10, 821.11, 821.12, 821.13, 821.14, 821.15, 821.16, 821.17, 821.18, 821.19, 821.20, 821.21, 821.22, 821.23, 821.24, 821.25, 82

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## NOTICE OF PROPOSED AMENDMENTS

Reclamation-Act the Surface-Mining Control and Reclamation Act (30 U.S.C. 1201 et seq. (1982)), Section 3.13 of the State Act, at 62 Ill. Adm. Code 1780.13, 1816.11(f), 1816.61 to 1816.68, 1817.61 to 1817.68, 1840.2, 1840.12, or this part.

- 2) The maximum time allowed to abate the infraction by completing the remedial action shall be stated in the notice and shall include consideration of the nature of the infraction, as well as the availability of resources to complete the abatement. Remedial actions may include, but need not be limited to, a requirements to receive additional training or undergo reexamination to demonstrate competence. A copy of such notice shall be forwarded to the blaster's employer. Any such notice may be terminated when the remedial action has been completed, modified to correct deficiencies or errors or make other changes in the notice or to change the required abatement date, or vacated if the infraction did not occur or occurred as the result of sabotage by persons other than the blaster.
- 3) The blaster may file a request for review with the Department, and if desired, a hearing within thirty (30) days of the receipt of the notice of infraction. ~~The request shall include the blaster's name, certification number, identification of the notice, and the date of the notice. The request shall be forwarded to Hearings, Illinois Department of Mines and Metallurgy, Band-Reclamation-Division-227-South-Seventh-Street, Springfield, Illinois 62796.~~ If a hearing is requested, the hearing shall be conducted in accordance with 62 Ill. Adm. Code 1045-1907-(c)-(7) and (d) 1847.4(e) and (g) through (p) and shall be held at a location in Illinois as near the blaster's place of employment as a hearing room can be located one of the Department's offices. The Department shall give at least five (5) days notice of the date, time and location of the hearing to the blaster, his or her employer, the Director, Office of Surface Mining, and any person who filed a report which led to the notice that was issued.
- 4) The filing of a request for hearing shall not act as a stay of the remedial actions required as part of the notice of infraction.
- c) Notice to Show Cause
- 1) The Department, upon a finding of a willful commission of an infraction by the blaster, shall issue to the blaster a written notice to show cause why his certification should not be suspended or revoked for a specified period (not to exceed the term of the certificate).
- 2) The blaster shall have twenty-one (21) days from the receipt date of the notice or other time period necessary for adequate response as may be set out in the notice, in which to file an answer and request a hearing. If the blaster files in answer to

- c) Notice to Show Cause

- 1) The Department, upon a finding of a willful commission of an infraction by the blaster, shall issue to the blaster a written notice to show cause why his certification should not be suspended or revoked for a specified period (not to exceed the term of the certificate).
- 2) The blaster shall have twenty-one (21) days from the receipt date of the notice or other time period necessary for adequate response as may be set out in the notice, in which to file an answer and request a hearing. If the blaster files an answer to



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Commenters must provide a name and address. Comments must be directed to a specific subsection and must be made on a separate sheet of 8 1/2 x 11 inch paper.

Comments may include data, views, arguments or any documents relevant to the proposals noted above in the Description of Subjects and Issues involved. All comments are due at the above address no later than 45 days after the publication of this notice. Comments received thereafter will not be considered in this rulemaking.

## 12) Initial Regulatory Flexibility Analysis:

A) Types of small businesses affected: This rulemaking does not affect small businesses.

B) Reporting, bookkeeping or other procedures required for compliance: None

C) Types of professional skills necessary for compliance: None

13) State reason(s) for the rulemaking if it was not included in either of the two (2) most recent regulatory agendas: This rulemaking was included in the regulatory agenda published at 19 Ill. Reg. 659-684 (January 20, 1995).

The full text of the Proposed Amendments begins on the next page.

## DEPARTMENT OF MINES AND MINERALS

## NOTICE OF PROPOSED AMENDMENTS

TITLE 62: MINING  
CHAPTER I: DEPARTMENT OF MINES AND MINERALS

## PART 1783

UNDERGROUND MINING PERMIT APPLICATIONS--MINIMUM  
REQUIREMENTS FOR INFORMATION ON ENVIRONMENTAL RESOURCES

Section	Responsibilities
1783.4	Use of Existing Data
1783.5	Use of Expert Opinion
1783.6	Seasonal Water Quality Data (Repealed)
1783.7	General Requirements
1783.11	General Environmental Resources Information
1783.12	Description of Hydrology and Geology: General Requirements (Repealed)
1783.13	Geology Description (Repealed)
1783.14	Ground Water Information (Repealed)
1783.15	Surface Water Information (Repealed)
1783.16	Vegetation Information
1783.19	Fish and Wildlife Resources Information (Repealed)
1783.20	Soil Resources Information
1783.21	Land Use Information (Repealed)
1783.22	Maps: General Requirements
1783.24	Cross-Sections, Maps, and Plans
1783.25	Prime Farmland Investigation (Repealed)
1783.27	

AUTHORITY: Implementing and authorized by Sections 2.01, 2.02 and 9.01 of the Surface Coal Mining Land Conservation and Reclamation Act (Ill. Rev. Stat. 1991, ch. 96 1/2, pars. 7902.01, 7902.02 and 7909.01) [225 ILCS 720/2.01, 2.02, 9.01].

SOURCE: Adopted at 4 Ill. Reg. 37, p. 1, effective June 1, 1982; amended at 6 Ill. Reg. 1, effective June 1, 1982; codified at 8 Ill. Reg. 4937; amended at 11 Ill. Reg. 8632, effective July 1, 1987; amended at 14 Ill. Reg. 11929, effective January 1, 1991; amended at 17 Ill. Reg. 11131, effective July 1, 1993; amended at 19 Ill. Reg. \_\_\_\_\_, effective \_\_\_\_\_.

## Section 1783.22 Land Use Information (Repealed)

- a) The application shall contain a statement of the condition--capability and productivity of the land--which will be affected--by--surface operations and facilities within the proposed permit area--including:
- A--map--and--supporting--narrative--of--the--uses--of--the--land--existing at the time of the filing of the application--if--the--permitting use--of--land--was--changed--within--five--(5)--years--before--the anticipated date--of--beginning--the--proposed--operations--the historic use of the land shall also be described.



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- 2) A narrative of land capability and productivity, which analyzes the land use description under subsection (a), in conjunction with other environmental resources information required under this Part. The narrative shall provide analyses of:
- A) The capability of the land before any mining to support a variety of uses, giving consideration to soil and foundation characteristics, topography, vegetative cover, and the hydrology of the area proposed to be affected by surface operations or facilities; and
- B) The productivity of the area proposed to be affected by surface operations and facilities before mining, expressed as average yield of food, fiber, forage or wood products from such lands obtained under high levels of management. The productivity shall be determined by yield data or estimates for similar sites based on current data from the U.S. Department of Agriculture, State Universities, natural resources or agricultural agencies.
- b) The application shall state whether the proposed permit area contains land previously mined or disturbed by mining and, if so, the following information, if available: For subsections (1) through (4) below, this information must also be provided for the shadow area:
- 1) The type of mining method used;
- 2) The coal seams or other mineral strata mined;
- 3) The extent of coal or other minerals removed;
- 4) The approximate dates of past mining; and
- 5) The uses of the land preceding mining.
- c) The application shall contain a description of the existing land uses and land use classifications under local law, if any, of the proposed permit and adjacent areas.

(Source: Repealed at 19 Ill. Reg. \_\_\_\_\_, effective \_\_\_\_\_)

## Section 1783.25 Cross-Sections, Maps, and Plans

- a) The application shall include cross-sections, maps, and plans showing:
- 1) Elevations and locations of test borings and core samplings from the permit and shadow areas;
  - 2) Elevations and locations of monitoring stations used to gather data on water quality and quantity, fish and wildlife, and air quality, if required, in preparation of the application;
  - 3) Nature, depth, and thickness of the coal seams to be mined, any coal or rider seams above the seam to be mined, each stratum of the overburden, and the stratum immediately below the lowest coal seam to be mined;
  - 4) All coal crop lines and the strike and dip of the coal to be mined within the proposed permit area;
  - 5) Location and extent of known workings of active, inactive, or

## DEPARTMENT OF MINES AND MINERALS

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- abandoned underground mines, including mine openings to the surface within the proposed permit, shadow and adjacent areas;
- 6) Location and extent of subsurface water, if encountered, within the proposed permit or adjacent areas, including, but not limited to areal and vertical distribution of aquifers, and portrayal of seasonal differences of head in different aquifers on cross-sections and contour maps;
- 7) Location and extent of surface water bodies such as streams, lakes, ponds, springs, constructed or natural drains, and irrigation ditches within the proposed permit, shadow and adjacent areas;
- 8) Location and extent of existing or previously surface-mined areas within the proposed permit area;
- 9) Location and dimensions of existing areas of spoil, waste, coal development waste, and noncoal waste disposal, dams, embankments, other impoundments, and water treatment and air pollution control facilities within the proposed permit area;
- 10) Location, and depth if available, of gas and oil wells within the proposed permit area and water wells in the permit, shadow area and adjacent areas;
- 11) Sufficient slope measurements to adequately represent the existing land surface configuration of the area affected by surface operations and facilities; measured and recorded according to the following:
- A) Each measurement shall consist of an angle of inclination along the prevailing slope extending one hundred feet linear feet above and below or beyond the coal outcrop of the area to be disturbed or where this is impractical, as locations specified by the Department;
- B) Where the area has been previously mined, the measurements shall extend at least one hundred feet beyond the limits of mining disturbances or any other distance determined by the Department to be representative of the prevailing configuration of the land;
- C) Slope measurements shall take into account natural variations in slope to provide accurate representation of the range of natural slopes and reflect geometric differences of the area to be disturbed; and
- B) A site map of medium intensity prepared to show specifications for a contoured aerial photo with a scale of not smaller than one (1) inch = four hundred (400) feet (1:400), and a contour interval of not greater than ten (10) feet may be substituted for subsection (1) through (3).
- b) Maps, plans, and cross-sections included in a permit application and required by this Section shall be prepared by, or under the direction of, and sealed by a qualified registered professional engineer licensed under the Illinois Professional Engineering Act (15/111 Rev.

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~~Stat--1985--ch--117--pars--5101---5137~~ the Professional Engineering Practice Act of 1989 [225 ILCS 325] or a registered professional land surveyor licensed under ~~the--111th--Land-Surveyors-Act--111--Rev--Stat--1985--ch--117--pars--3201-----3234~~ the Illinois Professional Land Surveyor Act of 1989 [225 ILCS 330], with assistance from experts in related fields such as geology and landscape architecture and shall be updated as required by the Department.

(Source: Amended at 19 Ill. Reg. \_\_\_\_\_, effective \_\_\_\_\_)

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1) Heading of the Part: Underground Mining Permit Applications--Minimum Requirements for Reclamation and Operation Plan

2) Code Citation: 62 Ill. Adm. Code 1784

3) Section Number: Proposed Action:

1784.15 Amend

4) Statutory Authority: Implementing and authorized by the Surface Coal Mining Land Conservation and Reclamation Act (Ill. Rev. Stat. 1991, ch. 96 1/2, pars. 7901.01 et seq.) (225 ILCS 720).

5) A complete description of the subjects and issues involved:

Section 1784.15 sets forth underground mining reclamation plan requirements, and is being reorganized and amended for consistency with federal counterpart rules at 59 Fed. Reg. 27932 (May 27, 1994). Many of the proposed changes were taken from Section 1783.25, portions of which are being deleted in this rulemaking.

6) Will this proposed rule replace an emergency rule currently in effect?  
No

7) Does this rulemaking contain an automatic repeal date? No

8) Do these proposed amendments contain incorporations by reference? No

9) Are there any other amendments pending on this Part? No

10) Statement of Statewide Policy Objectives: The proposed amendments will have no impacts upon local units of government.

11) Time, Place, and Manner in which interested persons may comment on this proposed rulemaking:

Written comments may be submitted within 45 days of the publication of this notice to:

Karen Jacobs, Legal Counsel  
Illinois Department of Mines and Minerals  
300 West Jefferson, Suite 300  
Springfield, IL 62791-0137  
(217) 782-6791

Commenters must provide a name and address. Comments must be directed to a specific subsection and must be made on a separate sheet of 8 1/2 x 11 inch paper.

## DEPARTMENT OF MINES AND MINERALS

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Comments may include data, views, arguments or any documents relevant to the proposals noted above in the Description of Subjects and Issues involved. All comments are due at the above address no later than 45 days after the publication of this notice. Comments received thereafter will not be considered in this rulemaking.

12) Initial Regulatory Flexibility Analysis:

- A) Types of small businesses affected: This rulemaking does not affect small businesses.
- B) Reporting, bookkeeping or other procedures required for compliance:  
None
- C) Types of professional skills necessary for compliance: None

13) State reason(s) for the rulemaking if it was not included in either of the two (2) most recent regulatory agendas:

This rulemaking was included in the regulatory agenda published at 19 Ill. Reg. 659-684 (January 20, 1995).

The full text of the Proposed Amendments begins on the next page.

## DEPARTMENT OF MINES AND MINERALS

## NOTICE OF PROPOSED AMENDMENTS

TITLE 62: MINING

## CHAPTER I: DEPARTMENT OF MINES AND MINERALS

PART 1784

## UNDERGROUND MINING PERMIT APPLICATIONS--MINIMUM REQUIREMENTS FOR RECLAMATION AND OPERATION PLAN

Section	Responsibilities
1784.4	Use of Existing Data
1784.5	Use of Expert Opinion
1784.6	Operation Plan: General Requirements
1784.11	Operation Plan: Existing Structures
1784.12	Reclamation Plan: General Requirements
1784.13	Hydrologic Information
1784.14	Reclamation Plan: <u>Post-Mining--Band-Uses Pre-Mining and Post-Mining</u>
1784.15	Information
1784.16	Reclamation Plan: Ponds, Impoundments, Banks, Dams, and Embankments
1784.17	Protection of Public Parks and Historic Places
1784.18	Relocation or Use of Public Roads
1784.19	Underground Development Waste
1784.20	Subsidence Control Plan
1784.21	Fish and Wildlife Plan
1784.22	Geologic Information
1784.23	Operation Plan: Maps and Plans
1784.24	Transportation Facilities
1784.25	Return of Coal Processing Waste to Abandoned Underground Workings
1784.26	Air Pollution Control Plan
1784.27	Rehabilitation of Siltation Structures, Diversions, Impoundments, and Treatment Facilities (Repealed)
1784.29	Diversions
1784.30	Support Facilities

AUTHORITY: Implementing and authorized by the Surface Coal Mining Land Conservation and Reclamation Act (Ill. Rev. Stat. 1991, ch. 96 1/2, pars. 7901.01 et seq.) [225 ILCS 720].

SOURCE: Adopted at 4 Ill. Reg. 37, p. 1, effective June 1, 1982; amended at 6 Ill. Reg. 1, effective June 1, 1982; codified at 8 Ill. Reg. 9350; amended at 11 Ill. Reg. 8652, effective July 1, 1987; amended at 14 Ill. Reg. 11935, effective January 1, 1991; amended at 15 Ill. Reg. 17301, effective January 1, 1992; amended at 17 Ill. Reg. 11135, effective July 1, 1993; amended at 19 Ill. Reg. \_\_\_\_\_, effective \_\_\_\_\_.

Section 1784.15 Reclamation Plan: Post-Mining-Band-Uses Pre-Mining and Post Mining Information

at Each plan shall contain a detailed description of a proposed user



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agricultural agencies.  
3) A soils map of medium intensity prepared to the specifications of the Soil Conservation Service or a contoured aerial photo with a scale of not smaller than 1"=400' and contour interval of not greater than ten (10) feet.

b) Post-mining information. Each plan shall contain a detailed description of the proposed use, following reclamation, of the land within the proposed permit area, including a discussion of the utility and capacity of the reclaimed land to support a variety of alternative uses, and the relationship of the proposed use to existing land use policies and plans. This description shall explain:  
1) How the proposed post-mining land use is to be achieved and the necessary support activities which may be needed to achieve the proposed land use;  
2) Where a land use different from the pre-mining land use is proposed, all materials needed for approval of the alternative use under 62 Ill. Adm. Code 1817.133; and  
3) The consideration given to making all of the proposed underground mining activities consistent with surface owner plans and applicable State and local land use plans and programs.

c) The description shall be accompanied by a copy of the comments concerning the proposed use from the legal or equitable owner of record of the surface of the proposed permit area and the State and local government agencies which would have to initiate, implement, approve or authorize the proposed use of the land following reclamation.

(Source: Amended at 19 Ill. Reg. \_\_\_\_\_, effective \_\_\_\_\_)

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following reclamation of the land to be affected within the proposed permit area by surface operations or activities, including a discussion of the utility and capacity of the reclaimed land to support a variety of alternative uses, and the relationship of the proposed use to existing land use policies and plans. This description shall explain:  
1) How the proposed post-mining land use is to be achieved and the necessary support activities which may be needed to achieve the proposed land use;  
2) Where a land use different from the pre-mining land use is proposed, all materials needed for approval of the alternative use under 62 Ill. Adm. Code 1817.133; and  
3) The consideration given to making all of the proposed underground mining activities consistent with surface owner plans and applicable State and local land use plans and programs.

b) The description shall be accompanied by a copy of the comments concerning the proposed use from the legal or equitable owner of record of the surface areas to be affected by surface operations and facilities within the proposed permit area and the State and local government agencies which would have to initiate, implement, approve or authorize the proposed use of the land following reclamation. Pre-mining information. The application shall contain a statement of the condition, capability, and productivity of the land within the proposed permit area, including:  
1) A map and supporting narrative of the uses of the land existing at the time of the filing of the application. If the pre-mining use of the land was changed within five (5) years before the anticipated date of beginning the proposed operations, the historic use of the land shall also be described. In the case of previously mined land, the use of the land prior to any mining shall also be described to the extent such information is available.

2) A narrative of land capability and productivity, which analyzes the land use description under subsection (a) above in conjunction with other environmental resources information required under this Part. The narrative shall provide analyses of:  
A) The capability of the land before any mining to support a variety of uses, giving consideration to soil and foundation characteristics, topography, vegetative cover and the hydrology of the proposed permit area; and  
B) The productivity of the proposed permit area before mining, expressed as average yield of food, fiber, forage, or wood products from such lands obtained under high levels of management. The productivity shall be determined by yield data or estimates for similar sites based on current data from the U.S. Department of Agriculture, State agriculture universities or appropriate State natural resource or

## DEPARTMENT OF PUBLIC AID

## NOTICE OF PROPOSED AMENDMENTS

1) Heading of the Part: Developmental Disabilities Service

2) Code Citation: 89 Ill. Adm. Code 144

3) Section Number: Proposed Action:

144.275 Amendment

4) Statutory Authority: Section 12-13 of the Illinois Public Aid Code (Ill. Rev. Stat. 1991, ch. 23, par. 12-13) [305 ILCS 5/12-13]

5) Complete Description of the Subjects and Issues Involved: These proposed amendments respond to an internal audit finding concerning reimbursement calculation for licensed nurse services in ICF/MR facilities. According to the audit, the rate method being used is not in compliance with the Department's reimbursement rule for ICF/MR facilities. The proposed amendments correct any discrepancy between Section 144.275 and actual practices. Under these amendments, reimbursement for licensed nurse services in ICF/MR facilities, but excluding ICF/DP-16 facilities, is calculated at a minimum of 4.8 full time equivalent (FTE) nurses for clients who do not need specialized care, plus additional FTE nurses up to a maximum of a 1:6.25 nurse/client ratio.

These proposed amendments have been reviewed and approved by the Department of Mental Health and Developmental Disabilities, which is responsible for ICF/MR oversight and reimbursement calculation.

The proposed amendments bring Section 144.275 into agreement with the current rate calculation methodology, and will not result in any expenditure changes for the Department. ICF/MR facilities will not experience any rate decreases as a result of these amendments.

6) Will these proposed amendments replace emergency amendments currently in effect? NO

7) Does this rulemaking contain an automatic repeal date? NO

8) Do these proposed amendments contain incorporations by reference? NO

9) Are there any other proposed amendments pending on this Part? Yes

<u>Sections</u>	<u>Proposed Action</u>	<u>Illinois Register Citation</u>
144. Table B	Amendment	November 14, 1994 (18 Ill. Reg. 16521)

10) Statement of Statewide Policy Objectives: These proposed amendments do not affect units of local government.

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11) Time, Place, and Manner in which Interested Persons may comment on this proposed rulemaking: Any interested parties may submit comments, data, views, or arguments concerning this proposed rulemaking. All comments must be in writing and should be addressed to Joanne Jones, Bureau of Rules and Regulations, Illinois Department of Public Aid, 100 South Grand Ave., 3rd Floor, Springfield, Illinois 62762 (Phone: (217) 524-3215). The Department requests the submission of written comments within 30 days after the publication of this notice. The Department will consider all written comments it receives during the first notice period as required by Section 5-40 of the Illinois Administrative Procedure Act [5 ILCS 100/5-40].

These proposed amendments may have an impact on small businesses, small municipalities, and not for profit corporations as defined in Sections 1-75, 1-80 and 1-85 of the Illinois Administrative Procedure Act [5 ILCS 100/1-75, 1-80, 1-85]. These entities may submit comments in writing to the Department at the above address in accordance with the regulatory flexibility provisions in Section 5-30 of the Illinois Administrative Procedure Act [5 ILCS 100/5-30]. These entities shall indicate their status as small businesses, small municipalities, or not for profit corporations as part of any written comments they submit to the Department.

12) Initial Regulatory Flexibility Analysis:

A) Types of small businesses, small municipalities and not for profit corporations affected: Intermediate Care Facilities for the Mentally Retarded (ICF/MR)

B) Reporting, bookkeeping or other procedures required for compliance: None

C) Types of professional skills necessary for compliance: None

13) State reasons for this rulemaking if it was not included in either of the two most recent regulatory agendas: The reasons for this rulemaking are fully described above in the complete description of the subjects and issues involved. This rulemaking was inadvertently omitted when the most recent regulatory agenda was published.

The full text of the Proposed Amendments begins on the next page:

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NOTICE OF PROPOSED AMENDMENTS

TITLE 89: SOCIAL SERVICES  
CHAPTER I: DEPARTMENT OF PUBLIC AID  
SUBCHAPTER d: MEDICAL PROGRAMS  
PART 144  
DEVELOPMENTAL DISABILITIES SERVICES

Section 144.1 Incorporation By Reference  
144.1 Determination of Program (Active Treatment) Costs  
144.5 Active Treatment Service Requirements in Residential Facilities for  
144.25 Individuals with Developmental Disabilities (Repealed)  
144.50 Inspection of Care (IOC) Review Criteria for the Evaluation of Active  
Treatment Services in Residential Facilities for Individuals with  
Developmental Disabilities (Repealed)  
144.75 Comprehensive Functional Assessments and Reassessments (Repealed)  
144.100 Interdisciplinary Team (IDT) (Repealed)  
144.105 Individual Program Plan (IPP) (Repealed)  
144.125 Specialized Care - Behavior Development Programs  
144.150 Specialized Care - Health and Sensory Disabilities  
144.175 Functional Needs  
144.200 Service Needs - Medical Care (Repealed)  
144.205 Service Needs - Medical and Therapy Services (Repealed)  
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144.230 Reconciliation of Resident Funds  
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144.275 Reimbursement for Program (Active Treatment) Costs in Residential  
Facilities for Clients with Developmental Disabilities  
144.300 Reimbursement for Program (Active Treatment) Costs in Small Scale  
Residential Facilities  
144.325 Capital Rate Calculation  
TABLE A Overview of Staff Intensity Scale of Maladaptive Behaviors  
TABLE B Staff Intensity Scale  
TABLE C IPP Outcomes (Repealed)  
TABLE D Guidelines for Determining Levels of Functioning  
TABLE E Standardized Adaptive Functional Assessment

AUTHORITY: Implementing Article III of the Illinois Health Finance Reform Act  
(Ill. Rev. Stat. 1991, ch. 111 1/2, par. 6503-1 et seq.) [20 ILCS 2215/Art.  
III] and implementing and authorized by Articles III, IV, V, VI, VII and  
Section 12-13 of the Illinois Public Aid Code (Ill. Rev. Stat. 1991, ch. 23,  
pars. 3-1 et seq., 4-1 et seq., 5-1 et seq., 6-1 et seq., 7-1 et seq. and  
12-13) [305 ILCS 5/Arts. III, IV, V, VI, VII and 12-13].  
SOURCE: Adopted at 14 Ill. Reg. 4166, effective March 9, 1990; Section 144.275  
remodified from 89 Ill. Adm. Code 146.225 at 14 Ill. Reg. 7651; amended at 14  
Ill. Reg. 17988, effective October 29, 1990; amended at 15 Ill. Reg. 14084,  
effective September 24, 1991; emergency amendment at 15 Ill. Reg. 16148,

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manifested during the developmental period), will include both:

- i) an assessment of intellectual functioning as measured by a standardized, full scale, individual intelligence test such as the Stanford Binet and WAIS-R. Such an assessment must be administered by a psychologist who is registered in Illinois under the Illinois Psychological Act (Illinois Department of Professional Regulation); and
  - ii) an assessment of adaptive behaviors using a nationally standardized, Department approved assessment instrument, such as the Scales of Independent Behavior (SIB) or the Inventory For Client and Agency Planning (ICAP). Such an assessment instrument will be utilized by at least one Qualified Mental Retardation Professional (QMRP) to evaluate each client's functional skills and adaptive behaviors.
- B) The final determination of each client's overall level of functioning employs both the assessment of intellectual functioning and the assessment of adaptive behaviors, and will be made according to the criteria set forth in Section 144. Table D and Section 144. Table E.
- C) The amount for Direct Services for these staffing ratios shall be obtained by:
- i) determining the number of clients within each overall level of functioning; dividing each number by the client component of the staff: client ratio; summing these quotients; multiplying the sum by the aide hourly wage factor, and then by 2080 (52 weeks times 40 hours per week), to obtain a total annual Direct Service cost; and dividing this total by 365 days and then by the number of clients to obtain the amount for Direct Services per client per day. For example, if a facility serves 40 clients in the mild level of functioning, 30 clients in the moderate level of functioning, and 30 clients in the severe/profound level of functioning, the number of FTE Direct Services staff will be  $(40 \text{ divided by } 5) + (30 \text{ divided by } 2.5) + (30 \text{ divided by } 2) = 35$ . If the aide hourly wage is \$5.00, the total annual cost will be  $35 \times \$5 \times 2080 = \$364,000$ . The amount for FTE Direct Services per client per day will then be  $\$364,000 \text{ divided by } 365 \text{ divided by } 100 = \$9.97$ .
  - ii) In ICF/DD-16 facilities, the foregoing calculation is modified such that in step two 2 of subsection (a)(1)(C)(i) above, the facility may receive an amount for up to an additional .5 FTE. Direct Service is determined by multiplying .5 FTE by the proportion

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found by the ratio of the number of Medicaid eligible clients in the severe/profound level of functioning divided by the total number of eligible clients.

- 2) Licensed Nurses-Facilities must be in compliance with HCFA- (42 CFR 483.460) and Illinois Department of Public Health (IDPH) (77 Ill. Adm. Code 350.1230) staffing standards relative to facility type.

A) An ICF/MR (ICF/DD, SLC, SNF/PED but excluding ICF/DD-16) licensed for a population of 90 or fewer clients, none of whom require services under Levels II and III of Specialized Care-Health and Sensory Disabilities (Section 144.150(c) and (d)), will be reimbursed for a minimum of 4.8 FTE nurses. A facility with only such a population which has a licensed capacity greater than 90 clients will be reimbursed for additional FTE nurses according to the following Table:

Licensed Capacity	FTE Nurse : Client Ratio
Greater than 90 clients with no Specialized Care - Health and Sensory Disabilities	1:18.75

Client Type

Greater than 90 clients with no Specialized

Care - Health and

Sensory

Disabilities

needs under Levels

II and III

B) An ICF/MR (ICF/DD, SLC, SNF/PED but excluding ICF/DD-16)

licensed for a population of 30 or fewer clients, all of whom require services under Level(s) II and/or III of Specialized Care - Health and Sensory Disabilities will be reimbursed for a minimum of 4.8 FTE nurses. A facility with only such a population which has a licensed capacity greater than 30 clients will be reimbursed for additional FTE nurses according to the following Table:

Licensed Capacity	FTE Nurse : Client Ratio
Greater than 30 clients requiring Specialized Care - Health and Sensory Disabilities	1:6.25

Client Type

Greater than 30

clients requiring

Specialized

Care - Health and

Sensory

Disabilities

under Level(s) II

and III

AGENCY NOTE: The Omnibus Reconciliation Act of 1987 (P.L. 100-203) requirements prohibit the admission of individuals with a primary diagnosis of mental retardation into non-ICF/MR facilities. Therefore, SNF/PED facilities which

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meet ICF/MR certification requirements must be certified ICF/MR in order to comply with federal law when admitting individuals with mental retardation. Facilities which undergo certification conversion to ICF/MR will retain State licensure for skilled care (SNF/PED).

- C) An ICF/MR (ICF/DD, SLC, SNF/PED but excluding ICF/DD-16) which has a licensed capacity of 30 clients or more, some of whom require services under Level(s) II and/or III of Specialized Care - Health and Sensory Disabilities, and some of whom do not require such services, will be reimbursed at a minimum of 4.8 FTE nurses for non Specialized Care individuals plus additional for FTE nurses, up to a maximum of a 1:6.25 ratio, according to the following Table:

Client Type	FTE Nurse : Client Ratio
Clients requiring Specialized Care - Health and Sensory Disabilities under Level(s) II and/or III	1:6.25

Client Type	FTE Nurse : Client Ratio
Clients with no Specialized Care needs under Levels II and III	1:18.75

For example, for a facility with a licensed capacity of 90 42 clients, 30 15 of whom require services under Level(s) II and/or III, and 60 27 of whom do not require such services, the number of FTE nurses will be  $(30 \div 15) \div 6.25 = 4.8$  2.40 +  $(60 \div 27) \div 18.75 = 3.2$  1.44, however, reimbursement will be calculated at the minimum of 4.8 = 7.2. However, utilizing the maximum client ratio allowed, the facility will be reimbursed for 6.72 FTE nurses  $(42 \div 6.25 = 6.72)$ .

D) Licensed nurses are not required in an ICF/DD-16 if none of the clients require a physician's medical care plan of treatment.

- i) An ICF/DD-16 which has 0 eight or fewer clients with medical care plans of treatment but who do not require services under Specialized Care - Health and Sensory Disabilities, Level(s) II and/or III, will be reimbursed for .5 FTE nurse. A facility with 9 nine or more such clients will be reimbursed for one (1) FTE nurse.
- ii) An ICF/DD-16 with clients requiring medical care plans of treatment and additional medical services under

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Specialized Care - Health and Sensory Disabilities, Level(s) II and/or III, will be reimbursed according to the method in subsection (a)(2)(D)(i) above, plus additional reimbursement for licensed nurses using an FTE nurse: client ratio of 1:6.25 up to a maximum of the 1:6.25 ratio.

- E) The licensed nurse component is computed similarly to the method in subsection (a)(1)(C) above. To determine the amount for Licensed Nurses, the number of FTE nurses required for each facility type and/or for clients receiving services under Specialized Care - Health and Sensory Disabilities, Level(s) II and/or III, shall be obtained according to subsections (a)(2)(A), (B), (C) and (D) above. This number is multiplied by the hourly nurse wage factor and then by 2080 (52 weeks x 40 hours). The product is divided by 365 and then by the number of clients.

- 3) The total reimbursement amount for Minimum Staffing is the sum of the amount for Direct Staff plus the amount for Licensed Nurses.

## b) Active Treatment

- 1) Qualified Mental Retardation Professional (QMRP) - a person who has at least one year of experience working directly with persons with mental retardation or other developmental disabilities, and is one of the following:

- A) A doctor of medicine or osteopathy.  
B) A registered nurse.  
C) An individual who holds at least a bachelor's degree in one of the following professional categories: Occupational Therapist; Physical Therapist; Psychologist. Master's Degree; Social Worker; Recreation Specialist; Registered Dietitian; and Human Services, including but not limited to Sociology, Special Education, Rehabilitation Counseling, and psychology. (42 CFR 483.430)

- D) The amount for QMRPs assumes that a full-time QMRP is required for every 15 clients. The number of QMRPs shall be obtained by dividing the number of clients in the facility by 15. The obtained number of QMRPs is multiplied by the hourly wage factor and then by 2080. The product is divided by 365 and then by the number of clients to arrive at an amount per client per day.

- 2) Interdisciplinary Team (IDT)  
A) The amount for services rendered by the IDT assumes that each client requires one day of IDT services per year. This amount is computed to be \$1.82 per client per day.  
B) Interdisciplinary Team - A team which represents the professions, disciplines, or service areas that are relevant to identifying the client's needs and designing programs that meet the client's needs. Appropriate facility staff must participate in interdisciplinary team meetings.

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Participation by other agencies serving the client is required (89 Ill. Adm. Code 140.647). Participation by the client, his or her parent (if the client is a minor), or the client's legal guardian is required unless the participation is unobtainable or inappropriate. (42 CFR 483.440)

## 3) Additional Direct Service Staff (ADSS)

A) The amount for ADSS assumes an FTE staff:client ratio of 1:7.5. The total number of clients is divided by 7.5 and a per diem amount is obtained according to the method described in subsection (a)(1)(B) of this Section. In SFC facilities, the foregoing calculation is modified so that the overall level of functioning is distributed proportionately across each living unit (16-18 clients) in Step-1 step one of the calculation. If dividing the number of clients results in a fraction, it is rounded up to the next whole number in proportion to the number of clients in the severe/profound level of functioning. The total FTE is obtained by summing the calculation results from each living unit.

B) Additional Direct Services Staff - Staff which is in addition to HCFA's minimum average daily staffing standards (subsection (a)(1) of this Section), and for which the Department will provide reimbursement to ensure the delivery of active treatment. Examples of ADSS include, but are not limited to, staff who provide activity services, dietetic aides, and music therapists.

4) The total reimbursement amount for Active Treatment is the sum of the amounts for QMRP, IDT and ADSS.

## c) Specialized Care

An additional amount shall be paid for clients meeting the requirements for services under Specialized Care. Detailed descriptions of services under Specialized Care are found in Section 144.125 Specialized Care - Behavior Development Programs, and Section 144.150, Specialized Care - Health and Sensory Disabilities. The service level for each client meeting the criteria of more than one level under Specialized Care shall be determined according to his/her disability or functional deficit which represents the most intense need for services under Specialized Care, and results in the greatest reimbursement.

## 1) Specialized Care - Behavior Development Programs

Behavior development programs are related to maladaptive behaviors which occur with high frequency and/or great severity, and are instituted for the reduction of maladaptive behaviors and/or the increase of adaptive behaviors. The behavior development program shall demonstrate the need for and use of a more intensive staffing pattern (direct care staff) than the regular pattern which is reimbursed for under subsection (a)(1) of this Section. The service level for a client who meets the

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requirements for services under Specialized Care - Behavior Development Programs will be identified and validated during the most recent IOC.

A) Level I - .5 hours FTE Direct Service per day.

More intense program services are provided for behaviors which occur with high frequency but moderate severity, such as verbal abuse one or more times per four hours which is hostile in tone and content.

B) Level II - 1.0 hours FTE Direct Service per day.

More intense program services are provided for behaviors which occur with high frequency and are aggressive or destructive, such as purposeful attacks of others which may result in minimal injuries, one or more times per day.

C) Level III - 2.0 hours FTE Direct Service per day.

More intense program services are provided for behaviors which occur with very high frequency such as hyperactivity one or more times per minute, or occur with high frequency and are seriously aggressive, assaultive or destructive and which may result in serious injury.

## 2) Specialized Care - Health and Sensory Disabilities

Specialized services for health and sensory disabilities refer to care which some clients must receive in order to attain physical health and development.

## A) Definitions

i) Ambulatory-The client is capable of walking without assistance or the aid of adaptive equipment or devices.

ii) Mobile Nonambulatory-The client is capable of locomotion with mobility assistance such as adaptive equipment or devices.

iii) Nonmobile-The client is not capable of locomotion even with mobility assistance.

B) Level I - .5 hours FTE Direct Service per day. The client is ambulatory, mobile nonambulatory, or has the potential to become mobile nonambulatory, and requires services to compensate for a sensory deficit (auditory or visual), or services enabling him/her to be mobile (physical disabilities).

i) Sensory deficits-visual. The client's vision is 20/200 or less in the better eye with the greatest possible correction #111--Rev-Stat--1989, ch--237-Par--39327 [20 ILCS 2420/2].

ii) Sensory deficits-auditory. The client has a hearing impairment of at least 55 decibels in the better ear, unaided.

iii) Physical disabilities means physical impairments which result in functional deficits requiring the client to receive training in the use of a device or devices, to



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achieve some level of independent mobility.

C) Level II - 1.0 hours FTE Direct Service per day. The client is nonmobile or mobile nonambulatory, requires mobility assistance, and requires services to meet high personal care needs. The client may also have significant daily medical needs and/or dual sensory deficits (visual and auditory).

i) Mobility assistance means assistance in transferring from a bed to an alternative position device, and assistance with movement/mobility around the facility.

ii) High personal care means one or more of the following: assistance with bathing, clothing, grooming and hygiene, eating and continence; position changes at two hour intervals, or as specified in the individual program plan; range of motion twice a day, or as specified in the individual program plan.

iii) Daily medical need means daily insulin injections, drug (insulin) monitoring, and/or ostomy care for a jejunostomy, ileostomy or colostomy.

iv) Dual sensory deficits means both an auditory disability and a visual disability.

AGENCY NOTE: A client who meets the criteria for Level II services is eligible for the FTE nurse:client ratio according to subsection (a)(2)(B), (C) and (D) of this Section.

D) Level III - 2.0 hours FTE Direct Service per day. The client is typically nonmobile or mobile nonambulatory, but may be ambulatory, and requires services to meet high medical needs. High medical needs mean one or more of the following:

i) daily intermittent catheterization;

ii) care for wounds including stage III and IV decubitus ulcers, deep wounds, infected wounds, extensive burns, or extensive lesions requiring treatment in the form of medications, dressings, whirlpool, ultraviolet light and/or irrigations;

iii) respiratory care including tracheostomy care, positive pressure breathing treatments, aerosol therapy, postural drainage and percussion, vibration and/or suctioning;

iv) feeding via nasogastric tube, or prolonged oral feeding; and

v) intensive physical habilitation due to a functional deficit as determined by physical or psychological causes.

AGENCY NOTE: A client who meets the criteria for Level III services is eligible for the FTE nurse:client ratio according to subsection (a)(2)(B), (C) and (D) of this Section.

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3) The total reimbursement amount for Specialized Care shall be the sum of the amounts determined under subsection (c)(1) and (2) of this Section, prorated over the number of eligible clients identified in the most recent facility reimbursement survey. For example, if the hourly wage is \$5.00, assume a facility with 10 ten residents, two of whom meet the criteria for Specialized Care - Health and Sensory Disabilities Level II, subsection (c)(2)(C) of this Section, with no daily medical needs, or sensory deficits, and eight of whom do not meet Specialized Care criteria. The facility will receive an amount of \$81 per client per day (2 two hours X 1.14 (FTE adjustment factor) divided by 8 eight hours/day = .285 staff; then .285 X (2080 hours/year divided by 365 days/year); then divide by 10 ten clients and multiply by \$5.00 to obtain \$0.81).

## d) Related Costs

1) An amount per client per day will be paid for other program costs, including program - related supplies, consultants and other items necessary for the delivery of active treatment to clients in accordance with their individual program plans.

2) For each facility type, this amount will be determined as follows. Add the amounts determined for subsections (a), (b) and (c) of this Section, but excluding the amount for the IDT (subsection (b)(2) of this Section), and then multiply this sum by the facility's Health Service Area (HSA) grouping (89 III. Adm. Code 140-Table B). The product plus the amount for the IDT (subsection (b)(2) of this Section), is then multiplied by a constant for the facility type, as follows:

Facility Type	Constant
ICF/DD	.10
SNF/PED or ICF/DD	.15
(An ICF/DD with some clients requiring services under Level(s) II and/or III of Specialized Care - Health and Sensory Disabilities).	
ICF/DD-16 & SLC	.20

3) An ICF/DD with some clients requiring services under Level(s) II and/or III of Specialized Care - Health and Sensory Disabilities, and some clients not requiring such services will have the total related cost calculated according to the weighted sum of the number of clients requiring Level(s) II and/or III multiplied by .15, plus the number of clients not requiring such services multiplied by .10. For example, for a facility with a licensed capacity of 90 clients, 30 of whom require services under

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Level(s) II and/or III, and 60 of whom do not require such services, the total related cost will be calculated according to subsection (d)(2) above for both groups of clients. (That is, subsections (a), (b) and (c) of this Section are summed, excluding the amount for the IDR, for clients requiring Level(s) II and/or III and for clients not requiring Level(s) II and/or III. Each sum is multiplied by the facility's HSA grouping, and the products are added to the amount for the IDR.) Each outcome is multiplied by the appropriate constant (the SNF/PED-ICF/DD constant of .15 or the ICF/DD constant of .10), and then by the number of clients in each group respectively. The two products are summed and then divided by the total number of clients.

4) An amount will also be paid for dental services which are in compliance with HCFA's regulations (42 CFR 483.460(e)(f) and (g)), for each client age 21 or more. Beginning July 1, 1991, this amount will be determined by adding the flat per diem of \$30 to the amount calculated according to subsection (d)(2) above. This per diem will cover the costs of prophylaxis treatment up to once every six months, and periodontal services as needed for each eligible client.

e) Total Program Per Diem - Total program per diem for each facility will be the sum of the amounts from subsections (a), (b), (c) and (d) of this Section.

(Source: Amended at 19 Ill. Reg. \_\_\_\_\_, effective \_\_\_\_\_)

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1) Heading of the Part: Reimbursement for Nursing Costs for Residential Facilities

2) Code Citation: 89 Ill. Adm. Code 147

3) Section Number: Proposed Action:

147.200

Amendment

4) Statutory Authority: Section 12-13 of the Illinois Public Aid Code (Ill. Rev. Stat. 1991, ch. 23, par. 12-13) [305 ILCS 5/12-13]

5) Complete Description of the Subjects and Issues Involved: Several changes are being proposed to the Department's rule regarding basic rehabilitation aide training programs for physical rehabilitation aides and occupational rehabilitation aides. The first change is being made to ensure that only competent and qualified individuals may enter the rehabilitation aide training program and provide nursing related services in long term care facilities. The course prerequisites are being changed so that only certified nurse aides, developmental disabilities aides, basic child care/habilitation aides and licensed nurses (RNs and LPNs) are eligible to take the rehabilitation aide training programs.

Another revision provides the Department with the authority to withhold certificate validation from a rehabilitation aide trainee if that individual has been found guilty of abuse, neglect or theft based upon information from the nurse aide registry of the Department of Public Health (DPH).

A change is also being made to remove reference to approval by DPH of rehabilitation or restorative nursing courses, because DPH no longer provides approval for such courses. Additionally, several technical changes are being made to provide for consistency in the rule.

These proposed amendments will not result in any budgetary changes.

6) Will these proposed amendments replace emergency amendments currently in effect? No

7) Does this rulemaking contain an automatic repeal date? No

8) Do these proposed amendments contain incorporations by reference? No

9) Are there any other proposed amendments pending on this Part? No

10) Statement of Statewide Policy Objectives: These proposed amendments do not affect units of local government.

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11) Time, place, and Manner in which Interested Persons may comment on this proposed rulemaking: Any interested parties may submit comments, data, views, or arguments concerning this proposed rulemaking. All comments must be in writing and should be addressed to Joanne Jones, Bureau of Rules and Regulations, Illinois Department of Public Aid, 100 South Grand Ave. E., 3rd Floor, Springfield, Illinois 62762 (Phone: (217) 524-3215). The Department requests the submission of written comments within 30 days after the publication of this notice. The Department will consider all written comments it receives during the first notice period as required by Section 5-40 of the Illinois Administrative Procedure Act [5 ILCS 100/5-40].

These proposed amendments may have an impact on small businesses, small municipalities, and not for profit corporations as defined in Sections 1-75, 1-80 and 1-85 of the Illinois Administrative Procedure Act [5 ILCS 100/1-75, 1-80, 1-85]. These entities may submit comments in writing to the Department at the above address in accordance with the regulatory flexibility provisions in Section 5-30 of the Illinois Administrative Procedure Act [5 ILCS 100/5-30]. These entities shall indicate their status as small businesses, small municipalities, or not for profit corporations as part of any written comments they submit to the Department.

12) Initial Regulatory Flexibility Analysis:

A) Types of small businesses, small municipalities and not for profit corporations affected: Long term care facilities, vocational schools, community colleges and universities where rehabilitation aide training courses may be conducted.

B) Reporting, bookkeeping or other procedures required for compliance:  
None

C) Types of professional skills necessary for compliance: None

13) State reasons for this rulemaking if it was not included in either of the two most recent regulatory agendas: The reasons for this rulemaking are fully described above in the complete description of the subjects and issues involved. This rulemaking was inadvertently omitted when the most recent regulatory agenda was published.

The full text of the Proposed Amendments begins on the next page:

DEPARTMENT OF PUBLIC AID

NOTICE OF PROPOSED AMENDMENTS

TITLE 89: SOCIAL SERVICES  
CHAPTER I: DEPARTMENT OF PUBLIC AID  
SUBCHAPTER d: MEDICAL PROGRAMS  
PART 147  
REIMBURSEMENT FOR NURSING COSTS FOR  
GERIATRIC FACILITIES

Section 147.5	Reimbursement For Nursing Costs For Geriatric Residents in Group Care Facilities
147.15	Comprehensive Resident Assessment
147.25	Functional Needs and Restorative Care
147.50	Service Needs
147.75	Definitions
147.100	Reconsiderations
147.105	Midnight Census Report
147.125	Times and Staff Levels
147.150	Statewide Rates
147.175	Referrals
147.200	Basic Rehabilitation Aide Training Program
147.205	Nursing Rates
147.250	Costs Associated with the Omnibus Budget Reconciliation Act of 1987
147.300	Determination of Program (Psychiatric Rehabilitation Services) Costs
147.305	Psychiatric Rehabilitation Service Requirements for Individuals With Mental Illness in Residential Facilities
147.310	Inspection of Care (IOC) Review Criteria for the Evaluation of Psychiatric Rehabilitation Services in Residential Facilities for Individuals with Mental Illness
147.315	Comprehensive Functional Assessments and Reassessments
147.320	Interdisciplinary Team (IDT)
147.325	Comprehensive Program Plan (CPP)
147.330	Specialized Care - Administration of Psychopharmacologic Drugs
147.335	Specialized Care - Behavioral Emergencies
147.340	Discharge Planning
147.345	Reimbursement for Program Costs in Nursing Facilities Providing Psychiatric Rehabilitation Services for Individuals with Mental Illness
147.350	Reimbursement for Additional Program Costs Associated with Providing Specialized Services for Individuals with Developmental Disabilities in Nursing Facilities
TABLE A	Staff Time and Allocation by Need Level
TABLE B	Staff Time and Allocation for Restorative Programs
TABLE C	Comprehensive Resident Assessment
TABLE D	Functional Needs and Restorative Care
TABLE E	Service
TABLE F	Social Services
TABLE G	Therapy Services





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- Code-395-3207-
- 2) Physical Rehabilitation Aide (PRA).
- A) Certified Nurse Aide (see 77 Ill. Adm. Code 395.300): or
- B) A-PRA-currently-enrolled-in-an-IPH-Basic-Nursing-Assistance-Training-Program--(see-77-III-Adm-Code-395.300)-but-must-hold-a-validated-certificate-from-IPH-prior-to-functioning-as-a-PRA-after-January-17-1987-or
- B-6) Successful-completion--as-determined--by-the-educational-institution--of-one-year--of-education--in--a-curriculum-leading--to--credentials--as--a-A-registered-nurse (RN) or a licensed practical nurse (LPN); or
- C)B) Developmental Disabilities Aide (see 77 Ill. Adm. Code 395.310); or
- B) A--PRA--currently--enrolled--in--an--IPH--Developmental-Disabilities-Aide-Training-Program--(see-77-III--Adm--Code-395-3207--or
- D)B) Basic Child Care/Habilitation Aide (see 77 Ill. Adm. Code 395.320).7-or
- 6) A--PRA--currently--enrolled--in--an--IPH--Basic--Child-Care/Habilitation-Aide-Training-Program--(see-77-III--Adm--Code-395-3207--
- c) Criteria for a IDPA Approved Basic Rehabilitation Aide Training Program ~~is~~ are as follows:
- 1) Application Procedures.
- The following information must be furnished to the Department at least ~~sixty~~-t 60+ days in advance of the training program. Each program sponsor providing its own training must apply for individual program approval. Retroactive approval will not be granted.
- A) Program rationale, i.e., philosophy, purpose and brief summary of the identified sponsoring agency and faculty qualifications.
- B) Complete outline which specifies program title, objectives, content, and methodology delineated by hour. The instructor has flexibility of teaching content in desired outline.
- C) Location and scheduled dates of program (including future dates). If programs are canceled or rescheduled for any reason, the Department must be notified prior to delivery date for purposes of monitoring.
- D) A copy of the evaluation tool for participant use must be included. The evaluation tool must evaluate the objectives, content, and instructors.
- 2) Submitted materials will be reviewed by the Department and the program sponsor will be notified of the Department's action. Approval will be based upon the compliance of the submitted materials with the requirements of this section. If the program is not approved, the reason for this decision will be given to the program sponsor.

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- 3) If a program is not approved, the program sponsor may, after making the appropriate modifications, reapply for approval.
- 4) Orientation to the specific policies of the employing agency shall be in addition to the twenty four (24) hours of instruction.
- 5) Any change in content, objectives, or instructional staff must be submitted for review.
- 6) All approved training programs must be resubmitted prior to 30 days of the annual anniversary date of the program's approval for continued approval. In the resubmission process, the program sponsor must submit the information specified in subsection (c)(1) above. Approval will be based upon compliance of the submitted materials with the requirements of this Section ~~section~~. In the resubmissions process, the program sponsor shall refer to the number assigned by the Department.
- 7) Each instructor is to provide ten ~~10~~ questions with answers that cover the course content. The questions and answers will become a bank of questions and answers which will be developed into a non-credit post-examination. This examination will be given by the instructor upon completion of the course to evaluate the effectiveness of training and demonstrate the students competency to the instructor.
- d) Instructor Qualifications and Requirements
- 1) The Occupational Rehabilitation Aide Training Program Instructor shall be a registered occupational therapist Registered Occupational-Therapist with a current Illinois license (see 225 ILCS 75 III-Rev-Stat--1989--CH--III--PAR--3781-et-seq-) who has no other duties during the hours while engaged in instruction of the training program, and who has had a minimum of three (3) years experience with at least two (2) years experience working with geriatrics in a non-acute setting.
- 2) The Physical Rehabilitation Aide Training Program Instructor shall be a physical therapist with a current or pending Illinois license (see 225 ILCS 90 III-Rev-Stat--1989--CH--III--PAR--4251-et-seq-) who has no other duties during the hours while engaged in instruction of the training program, and who has had a minimum of three (3) years experience with at least two (2) years experience working with geriatrics in a non-acute setting.
- 3) Instructor vitae must be submitted and a copy of his or her ~~his/her~~ current license or verification from the Department of Registration and Education of pending licensure.
- e) Course Requirements
- 1) The basic content must be presented in a minimum time frame of three (3) days but not to exceed a maximum of twenty-one ~~21~~ days unless it is being done by a educational institution (e.g. four year college or university, two year community college, or vocational school) on a term, semester or trimester basis. A ratio of two (2) hours of didactic instruction to one (1) hour of

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experiential learning exercises must be reflected in the ~~twenty~~ **four-** 24 hours minimum of training. Term, semester and trimester courses may be submitted by an educational institution. The program must include designated hours for each method of teaching.

2) The Basic Occupational Rehabilitation Aide Training Program shall include at a minimum:

A) Module I: Purposes

- 1) Define the objectives of the occupational rehabilitation program. Upon completion of this unit of instruction, the student will be able to: Differentiate among habilitation, rehabilitation, and occupational therapy; and understand the philosophy of habilitation, rehabilitation and occupational therapy.

11) Identify the concepts of rehabilitation. Upon completion of this unit of instruction, the student will be able to: Discriminate rehabilitation from restorative measures; identify purpose of the restorative measures; identify purpose of the rehabilitation measures; and list four compensatory techniques.

iii) Understand the relationship of occupational rehabilitation departments to other long term care facility departments. Upon completion of this unit of instruction, the student will be able to: Match the department name with a description of its function; and list three forms of communication used by the facility to develop an interdisciplinary approach to resident care.

iv) Understand standards of conduct with residents, family, friends, and other staff. Upon completion of this unit of instruction, the student will be able to: Define the purpose of confidentiality; identify appropriate responses to be used with family and friends; identify appropriate responses to residents' behavior; understand need for separation of work and home life; understand the difference between empathy and sympathy; understand ethical responsibility; define fraud; and examine methods to be used to deal with situations that may require applications of ethical responsibility.

B) Module II: Overview of policies,

i) Understand procedures pertaining to occupational rehabilitation occupational--rehabilitation. Upon completion of this unit of instruction, the student will be able to: Define the characteristics of

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appropriate candidates; and understand admission and discharge criteria.

- iii) Understand program documentation requirements. Upon completion of this unit of instruction, the student will be able to: Identify the role of documentation; have an awareness of techniques used in screening and assessment; define common medical terminology and abbreviations; perform treatments; lead an evaluation and treatment evaluation/treatment plan; identify components of care plans; and explain ORA's methods of communication of information to the ORT L.

C) Module 2.1: Specific occupational rehabilitation techniques.

i) Develop an awareness of the physical limitations necessary to carry out ADL tasks. Upon completion of this unit of instruction, the student will be able to: Define and describe physical deficits that lead to ADL dysfunction, namely cardiovascular accident, cardiovascular accident, arthritis, aneurysms, Parkinson's, multiple sclerosis, Multiple-Sclerosis, diabetes, Diabetes, Fractures and amputations, fractures, Arterial disease and related disorders, and developmental disabilities. Develop a list of experience procedures and suggested activities used for remediation and compensation for physical deficits.

Develop an awareness of the sensory problems that lead to ADL dysfunction. Upon completion of this unit of instruction, the student will be able to: Define and describe sensory deficits that lead to ADL dysfunction, namely: cardiovascular accident, Cardiovacular----Accident, arthritis, Arthritis, Parkinson's, multiple sclerosis, Multiple-Sclerosis, diabetes, Diabetes, fractures and amputations, fractures, Amputations, Alzheimer's disease and related disorders, and developmental disabilities. Developmental-Disabilities; have had an opportunity to experience procedures and suggested activities used for remediation and compensation of sensory loss; and expand his or her student's knowledge of techniques used by the ORA to improve the resident's functioning and compensate for loss of function or to adapt to permanent loss.

- (iii) Develop an awareness of perceptual and integration perceptual-integration components that lead to ADL dysfunction. Upon completion of this unit of



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instruction, the student will be able to: Have an awareness of perceptual and integrative perceptual/integrative deficits that lead to ADL dysfunction, namely body image and scheme ~~image/scheme~~, agnosia, apraxias, figure and ground ~~figure/ground~~, midline, preservation, and sequencing; and have had an opportunity to experience procedures and suggested activities used for remediation and compensation of perceptual and integrative ~~perceptual/integrative~~ dysfunction.

iv) Develop an awareness of cognitive deficits that lead to ADL dysfunction. Upon completion of this unit of instruction, the student will be able to: Identify components of cognition, namely memory, attention span, ability to learn new tasks, problem solving, and judgment; and have had an opportunity to experience procedures and suggested activities used for remediation and compensation for ADL dysfunction.

v) Develop an understanding of the role that motivation and interest play in the rehabilitation process. Upon completion of this unit of instruction, the student will be able to: Identify techniques used to gain and hold resident's interest; and identify techniques used to motivate the resident.

vi) Understand the deficits of disease, disability and the aging process. Upon completion of this unit of instruction, the student will be able to: Describe and identify symptomatology of the following conditions - arthritis ~~Arthritis~~, Parkinson's, multiple sclerosis ~~Multiple--Sclerosis~~, diabetes ~~Diabetes~~, fractures and amputations ~~Fractures/Amputations~~, Alzheimer's disease and related disorders, and developmental disabilities ~~Developmental--Disabilities~~; and have had an opportunity to experience procedures, adaptation techniques, equipment and environment to enhance independence in ADLs related to enhancing deficit areas.

vii) Learn body mechanics and methods of positioning residents. Upon completion of this unit of instruction, the student will be able to: Demonstrate principles of proper positioning in bed, chair and standing; and demonstrate principles of repositioning and moving residents.

viii) Understand expected behaviors and responsibilities related to emergency procedures. Upon completion of this unit of instruction, the student will be able to: Identify the ORA's role with regard to falls,

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fractures, fires, catheter bags and infection control; and list the adverse symptoms that should caution the ORA.

## D) Module IV: Psychological concepts.

i) Identify stereotypes and myths of the aged/chronically disabled. Upon completion of this unit of instruction, the student will be able to: Define aging; define chronic dysfunctional process; and discriminate myths and stereotypes ~~myths--stereotypes~~ from reality.

ii) Recognize the multiple problems of the aged and chronically disabled. Upon completion of this unit of instruction, the student will be able to: Identify types of problems facing the elderly in nursing homes; and identify types of problems facing the disabled in nursing homes.

iii) Understand one's own personal attitudes regarding the elderly and chronically disabled. Upon completion of this unit of instruction, the student will be able to: Discuss how attitudes and values effect expectations of achievement.

iv) Identify Kubler ~~Rubler~~ ~~Rosier~~ Ross' stages of death and dying and how they relate to loss. Upon completion of this unit of instruction, the student will be able to: List the five stages of the grieving process; and discuss ways to deal with the resident's behavior in each stage.

v) Understand how physical, emotional, psychological losses lead to depression and decreased function. Upon completion of this unit of instruction, the student will be able to: Identify losses that occur in aging; and identify losses that occur in chronic illness.

vi) Understand self esteem and those factors which effect positive and negative motivation. Upon completion of this unit of instruction, the student will be able to: Identify factors that influence motivation positively; identify factors that influence motivation negatively; and recognize impact that a care giver can have on the resident's self esteem.

3) The Basic Physical Rehabilitation Aide Training Program shall include at a minimum:

A) Module I: Philosophy and purpose.

1) Define the role of restorative nursing in long term care. Upon completion of this unit of instruction, the student will be able to: Discern the difference between restorative nursing and physical rehabilitation; and define the role of the nursing

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- assistant in restorative care.
- ii) Define the role of physical rehabilitation Physical Rehabilitation programs in long term care. Upon completion of this unit of instruction, the student will be able to: Define the role of the Physical Rehabilitation Aide; and identify the acceptable parameters of practice for the Physical Rehabilitation Aide, i.e., no manual stretching, no manual resistance.
- iii) Identify the effects of aging. Upon completion of this unit, the student will be able to: Understand the normal aging process; understand the chronic pathophysiological process; and discriminate myths and stereotypes myths/stereotypes of aging.
- iv) Identify the goals/objectives of physical rehabilitation Physical Rehabilitation. Upon completion of this unit of instruction, the student will be able to: Identify modalities used in physical rehabilitation Physical Rehabilitation to improve functional abilities; identify methods used to upgrade gross motor function; identify methods used to assist a resident to develop alternative methods of mobility; will be able to demonstrate methods used to improve safety during application of functional mobility techniques.
- v) Identify the benefits of rehabilitation and restorative Rehabilitation/Restorative services. Upon completion of this unit of instruction, the student will be able to: Experience techniques that can be used to motivate a resident to achieve the highest level of function; identify methods to use in providing emotional support; increase awareness of the role of rehabilitation and restorative Rehabilitation/Restorative services in improving the resident's self-image; and understand the role these services play in encouraging participation in activities, socialization and vocational programs.
- vi) Identify the PRA's expected attitudes and standards of conduct. Upon completion of this unit of instruction, the student will be able to: State the consequences of falsifying records; discuss methods to deal with situations where the PRA may be asked to falsify records; understand consequences of practicing outside the realm of their duties, i.e., doing assessments, reassessments and evaluations of residents; demonstrate methods to be used to maintain modesty and dignity of residents; understand PRA's role in maintaining confidentiality; and understand and

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- respect resident's rights.
- B) Module II: Terminology and abbreviations terminology/abbreviations.
- i) Standard medical terminology used in physical rehabilitation Physical Rehabilitation. Upon completion of this unit of instruction, the student will be able to: Define the standard terms used in physical rehabilitation Physical Rehabilitation; and read and understand a Physical therapist's Physical Therapist's assessment and progress notes.
- ii) Standard medical abbreviations used in physical rehabilitation Physical Rehabilitation. Upon completion of this unit of instruction, the student will be able to: Translate translate abbreviations; and to read and understand a physical therapist's Physical Therapist's assessment, i.e., identification of problems, goals, approaches and programs approaches/programs.
- C) Module III: Disease process.
- i) Identify the major neuromuscular disorders encountered in physical rehabilitation Physical Rehabilitation. Upon completion of this unit of instruction, the student will be able to: Identify the major characteristics of a resident with status post CVA, multiple sclerosis Multiple Sclerosis and Parkinson's disease; experience methods used to provide physical rehabilitation Physical Rehabilitation services to residents with these conditions; and identify precautions to be observed when delivering services to these clients.
- ii) Identify the major musculoskeletal disorders encountered in physical rehabilitation Physical Rehabilitation. Upon completion of this unit of instruction, the student will be able to: Identify the major characteristics of a resident with fractures, amputations of limbs, osteoporosis, arthritis; experience methods used to provide physical rehabilitation Physical Rehabilitation services to residents with these conditions; and identify precautions to be observed when delivering services to these clients.
- iii) Understand the basic body responses of a person with cardiopulmonary disease to physical rehabilitation Physical Rehabilitation. Upon completion of this unit of instruction, the student will be able to: Identify the impact on an impaired cardiopulmonary system when subjected to Physical Rehabilitation

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rehabilitation; experience methods used to provide physical rehabilitation ~~Physical--rehabilitation~~ services to residents with these conditions; and identify precautions to be observed when delivering services to these clients.

(v) Identify the neurological disorders encountered in physical rehabilitation. Physical Rehabilitation: Identify the major characteristics of a resident with Alzheimer's disease, epilepsy, Bipolar and organic brain syndrome. Organic-Brain-Syndrome; and experience methods used to provide physical rehabilitation. Physical-Rehabilitation services to residents with these conditions; and identify precautions to be observed when delivering services to these clients.

f) To evaluate the effectiveness of the Basic Rehabilitation Aide Training in educating the trainees, upon completion of the training program, each participant must take a non-credit post-test that encompasses the didactic and experiential learning opportunities presented. The Department will provide a post-test that shall be developed from questions submitted by licensed occupational and physical therapists who have received IDPA approval for rehabilitation aide courses. A summary of post-test scores must be returned to the Department. The instructor shall submit for validation only those certificates of students who the instructor feels have demonstrated competency.

(g) The Illinois Department of Public Aid shall monitor the training program. If the program, approved pursuant to subsection (c)(3) of this Section, is not being delivered, program approval will be rescinded.

#### h) Certificates

1) Proof of successful completion of the approved program necessitates the sponsoring organization to award certificates to the trainees. The following information must be sent to the Department prior to the Department validating the certificates:

A) Evidence of successful completion of the designated course, i.e., the certificate,

B) A list of the names of attendees,

(C) A list of social security numbers of the attendees,

D) Course course completion date,

Program program approval number,

**E) Program approval** The CNA's certificate, or

Proof of credentials other than the CNA certificate, that qualify the student to be a candidate. A certificate that will not be validated if the certificate lacks the prerequisites specified in the course description.

22) The Department will not validate a certificate for the following reasons:

A) If the trainee lacks the prerequisites specified in subsection (b) of this Section, or

B) If the trainee has been found guilty of abuse, neglect, or theft, based upon information on the Illinois Department of Public Health Nurse Aide Registry.

The Department will return the validated certificates to the sponsor(s) for distribution. The following minimum information must be typed on the certificates before they are sent to the Department for validation:

A) Name of trainee and social security Social-Security number.

B) Title: Basic Occupational or Physical Rehabilitation Training Program, as appropriate.

C) Candidate qualifications, e.g., CNA, Developmental Disabilities Aide 36-hour-activity-course (see subsection (b) of this Section).

D) Identification number of the program.  
 4137 Successful completion of the course does not imply  
 "certification" of the rehabilitation aide by the State. It only  
 indicates that the person has successfully completed the Basic  
 Rehabilitation Aide Training Program, and that Services **services**  
 provided by this individual to Medicaid recipients living in  
 licensed long term care facilities may be eligible for  
 reimbursement so long as the individual possesses a validated  
 certificate from the IDPA and all of Section 147.50 the rule  
 pertaining to this subsection (h)(4) ~~sub-section~~ is adhered to  
 (see Sections 147.50(j)(1)(A) +47-50(d)(10)(b)(iii) and  
 147.50(k)(1)(A) +47-50(d)(12)(B)(iii)).

i) Requests for approval of programs and other related correspondence are to be submitted to the Bureau of Long Term Quality Care.

(Source: Amended at 19 Ill. Reg. \_\_\_\_\_, effective \_\_\_\_\_)

(Source: Amended at 19 )

(Source: Amended at 19 Ill. Reg. , effective

(Source: Amended at 19 Ill. Reg. , effective



## DEPARTMENT OF PUBLIC HEALTH

## NOTICE OF PROPOSED AMENDMENTS

1) Heading of the Part:

Emergency Medical Services Code

2) Code Citation:

77 Ill. Adm. Code 535

3) Section Numbers:

	<u>Proposed Action:</u>
535.10	Amendments
535.20	Amendments
535.150	Amendments
535.210	Amendments
535.216	Amendments
535.217	Amendments
535.230	Amendments
535.270	Amendments
535.300	Amendments
535.310	Amendments
535.315	Amendments
535.320	Amendments
535.330	Amendments
535.335	Amendments
535.340	Amendments
535.400	Amendments
535.420	Amendments
535.430	Amendments
535.440	Amendments
535.500	Amendments
535.520	Amendments
535.530	Amendments
535.540	Amendments
535.650	Amendments
535.810	Amendments
535.1000	Amendments

4) Statutory Authority:

Emergency Medical Service (EMS) Systems Act  
(Ill. Rev. Stat. 1991, ch. 111 1/2, pars. 5501 et seq.)  
[210 ILCS 50]

5) A Complete Description of the Subjects and Issues Involved:

The Emergency Medical Services Code is being amended in response to Public Act 88-59 (effective July 7, 1993), which amended the Emergency Medical Services (EMS) System Act to provide that Emergency Medical Technician licenses granted or renewed after December 31, 1993 shall be granted or

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renewed for a period of 4 years. Amendments also implement Public Act 88-564 (effective January 1, 1995), which amended the EMS Systems Act to include provisions for reinstatement of an EMT-Intermediate or EMT-Paramedic who may have had an EMT license lapse while he/she incurred a disability and was unable to work.

The definitions in Section 535.10 have been amended to include a definition of "Emergency Medical Technician-Basic."

Section 535.20 has been amended to update the incorporation of the United States Department of Transportation Emergency Medical Technician National Standard Curriculum.

Sections 535.150, 535.210, 535.216, 535.217, 535.270, 535.300, 535.310, 535.315, 535.320, 535.330, 535.335, 535.340, 535.400, 535.430, 535.500, 535.530, 535.650, 535.810 and 535.1000 have also been amended to reflect the change in the name of the curriculum from EMT-Ambulance to EMT-Basic.

Section 535.216 is amended in response to Public Act 87-1233, which replaced the term "automatic defibrillation" with "automated defibrillation."

In Section 535.230, a provision has been added requiring the Project Medical Director, EMS System Coordinator and Project Director to notify the Department in writing of any association with an ambulance service provider through employment or contract, specifying how he or she is answerable to or directed by such ambulance service provider concerning any matter falling within the scope of the Act or this Part. The Department will be required to review and address potential or actual conflicts of interest on an individual basis.

Changes in Section 535.320 address the changes to "EMT-Basic" and "automated defibrillation".

Section 535.330 (EMT-A Relicensure) has been amended to reflect the statutory change to four-year licensure for EMT-As. The required 20-hour refresher training program must be completed during the last two years of the relicensure period. An additional 100 hours of continuing education, seminars, and workshops are required, with 60 hours completed during the first two years and 40 hours completed during the last two years of relicensure. Any System continuing education requirements for EMT-As approved to operate an automated defibrillator shall be included in the 100 continuing education hours.

Sections 535.420 (EMT-I Licensure) and 535.430 (EMT-I Relicensure) have been amended to reflect the statutory change to four year licensure for EMT-Is. The required 20-hour refresher training program must be completed during the last two years of the relicensure period. An additional 100

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hours of continuing education, seminars, and workshops are required, with 60 hours completed during the first two years and 40 hours completed during the last two years of relicensure, and with no more than 25 percent of the hours to be in any single area. In addition, any system continuing education requirements for EMT-Is approved to operate an automated defibrillator shall be included in the required 100 continuing education hours. Section 535.430 is also amended to implement P.A. 88-564 in regard to inactive status as a result of temporary disability.

Changes in Section 535.440 and 535.540 implement P.A. 88-546 in regard to inactive status as a result of temporary disability. Reference to four-year licensure is also added.

Sections 535.520 (EMT-P Licensure) and 535.530 (EMT-P Relicensure) have been amended to reflect the statutory change to four-year licensure for EMT-Is. Eighty hours of continuing education, seminars, and workshops are required during each two-year portion of the relicensure period, with not more than 25 percent to be in any single area. Section 535.530 is also amended to implement P.A. 88-564 in regard to inactive status as a result of temporary disability.

The economic effect of this rulemaking is unknown. Therefore, the Department requests any information that would assist in calculating this effect.

The Department anticipates adoption of this rulemaking approximately six to nine months after the publication of the Notice in Illinois Register.

- 6) Will this Rulemaking Replace an Emergency Rule Currently in Effect? No
- 7) Does this Rulemaking Contain an Automatic Repeal Date? No
- 8) Does this Rulemaking Contain Any Incorporations By Reference? No
- 9) Are there any other Proposed Amendments Pending on this Part? No

10) Statement of Statewide Policy Objectives:

This rulemaking does not create or expand a State Mandate.

- 11) Time, Place, and Manner in which Interested Persons May Comment on this Rulemaking:

Interested persons may present their comments concerning these rules by writing to Ms. Gail M. DeVito, Division of Governmental Affairs, Illinois Department of Public Health, 535 West Jefferson, Fifth Floor, Springfield, Illinois 62761 within 45 days after this issue of the Illinois Register. Phone: 217/782-6187

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These rules may have an impact on small businesses. In accordance with Sections 1-75 and 5-30 of the Illinois Administrative Procedure Act, any small business may present their comments in writing to Gail M. DeVito at the above address.

Any small business (as defined in Section 1-75 of the Illinois Administrative Procedure Act) commenting on these rules shall indicate their status as such, in writing, in their comments.

12) Initial Regulatory Flexibility Analysis:

A) Type of Small Businesses, Small Municipalities and Not-for-Profit Corporations Affected:

Emergency Medical Technicians, Emergency Medical Systems

B) Reporting, Bookkeeping or Other Procedures Required for Compliance:

None

C) Types of Professional Skills Necessary for Compliance:

Requirements for licensure as an Emergency Medical Technician.

The full text of the Proposed Amendments begins on the next page:

## DEPARTMENT OF PUBLIC HEALTH

## NOTICE OF PROPOSED AMENDMENTS

## TITLE 77: PUBLIC HEALTH

## CHAPTER I: DEPARTMENT OF PUBLIC HEALTH

## SUBCHAPTER f: EMERGENCY SERVICES AND HIGHWAY SAFETY

## PART 535

## EMERGENCY MEDICAL SERVICES CODE

## SUBPART A: GENERAL

## Section

535.10

Definitions

535.20

Incorporated Materials

## SUBPART B: COMMUNICATIONS

## Section

535.50

General Communications

535.60

EMS Systems Communications

## SUBPART C: LICENSURE OF AMBULANCE SERVICE PROVIDERS

## Section

535.100

Licensure of Ambulance Service Providers- General

535.110

Denial, Nonrenewal, Suspension and Revocation of

Provider License

535.120

Renewal of License

535.130

Renewal of License Denied

535.140

Revocation of License

535.150

Ambulance Licensing Requirements

535.160

Transfer of Care

## SUBPART D: EMERGENCY MEDICAL SERVICES SYSTEM PROGRAM

## Section

535.200

Emergency Medical Services System Program - General

535.210

EMS System Program Plan

535.215

Approval of Additional Drugs and Equipment

535.216

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535.217

Do Not Resuscitate (DNR) Policy

535.220

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535.230

EMS System Personnel Standards

535.240

Minimum Standards for Continuing Operation

535.250

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535.260

System Participation Suspensions

535.265

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535.270

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SUBPART E: EMERGENCY MEDICAL TECHNICIAN - AMBULANCE BASIC

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## (EMT-A EMT-B)

## Section

535.300

Emergency Medical Technician - Amulance Basic Training - General

535.310

EMT-A EMT-B Testing

535.315

Fee For Testing

535.320

EMT-A EMT-B Licensure

535.330

EMT-A EMT-B Relicensure

535.335

EMT-A EMT-B Continuing Education

535.340

Failure to Renew - Denial of Relicensure

535.350

Penalty (Repealed)

SUBPART F: EMERGENCY MEDICAL TECHNICIAN - INTERMEDIATE  
(EMT-I)

## Section

535.400

Emergency Medical Technician - Intermediate Training - General

535.410

EMT-I Testing

535.415

Fee For Testing

535.420

EMT-I Licensure

535.430

EMT-I Relicensure

535.432

EMT-I Continuing Education

535.435

Failure to Renew - Denial of Relicensure

535.440

EMT-I Inactive Status

535.450

Penalty (Repealed)

SUBPART G: EMERGENCY MEDICAL TECHNICIAN - PARAMEDIC  
(EMT-P)

## Section

535.500

Emergency Medical Technician - Paramedic Training - General

535.510

EMT-P Testing

535.515

Fee For Testing

535.520

EMT-P Licensure

535.530

EMT-P Relicensure

535.532

EMT-P Continuing Education

535.535

Failure to Renew - Denial of Relicensure

535.540

EMT-P Inactive Status

535.550

Penalty (Repealed)

## SUBPART H: RECIPROCITY

## Section

535.600

Reciprocity

SUBPART I: SUSPENSION, REVOCATION AND DENIAL OF  
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Section  
535.650 Suspension, Revocation and Denial of Licensure of EMTs

## SUBPART J: DATA COLLECTION AND EVALUATION

Section  
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Section  
535.750 Waiver Provisions

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Section  
535.800 General Provisions  
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## SUBPART M: CERTIFICATION OF SPECIALIZED EMERGENCY MEDICAL SERVICES VEHICLE (SENSV) PROGRAMS

Section  
535.900 Certification of (SENSV) Programs - General  
535.910 Denial, Nonrenewal, Suspension or Revocation of Certification  
535.920 SENSV Program Certification Requirements for All Vehicles  
535.930 Helicopter and Fixed-Wing Aircraft Requirements  
535.931 EMS Pilot Specifications  
535.932 Aeromedical Crew Member Training Requirements  
535.933 Aircraft Vehicle Specifications and Operations  
535.934 Aircraft Medical Equipment and Drugs  
535.935 Vehicle Maintenance  
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535.941 Watercraft Vehicle Specifications and Operation  
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535.950 Off-Road SENSV Requirements  
535.951 Off-Road Vehicle Specifications and Operation  
535.952 Off-Road Medical Equipment and Drugs  
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## SUBPART N: ADMINISTRATIVE WARNINGS AND FINES

Section  
535.1000 Administrative Warnings and Fines

AUTHORITY: Implementing and authorized by the Emergency Medical Services (EMS) Systems Act (Ill. Rev. Stat. 1991, ch. 111 1/2, pars. 5501 et seq.) [210 ILCS 50].

SOURCE: Adopted at 5 Ill. Reg. 5670, effective May 19, 1981; amended and codified at 8 Ill. Reg. 11623, effective June 27, 1984; amended at 11 Ill. Reg. 1433, effective February 1, 1987; amended at 11 Ill. Reg. 17219, effective October 15, 1987; amended at 11 Ill. Reg. 20945, effective December 15, 1987; amended at 12 Ill. Reg. 22406, effective December 15, 1988; amended at 13 Ill. Reg. 15414, effective September 15, 1989; amended at 13 Ill. Reg. 15716, effective September 15, 1989; amended at 14 Ill. Reg. 15390, effective September 1, 1990; amended at 15 Ill. Reg. 5722, effective April 10, 1991; amended at 15 Ill. Reg. 18167, effective December 15, 1991; amended at 17 Ill. Reg. 8196, effective May 21, 1993; amended at 18 Ill. Reg. 14375, effective September 10, 1994; amended at 19 Ill. Reg. \_\_\_\_\_, effective \_\_\_\_\_.

## SUBPART A: GENERAL

## Section 535.10 Definitions

For the purposes of this Part:

"Act" means the Emergency Medical Services (EMS) Systems Act (Ill. Rev. Stat. 1991, ch. 111 1/2, pars. 5501 et seq.) [210 ILCS 50].

"Administrative Hearing" means a hearing conducted by the Department pursuant to a Department action to deny, suspend or revoke an EMT license or an ambulance license, and in conformance with the Department's Rules of Practice and Procedure in Administrative Hearings (77 Ill. Adm. Code 100).

"Advanced Life Support-Mobile Intensive Care (ALS/MIC)+ALS+" means an advanced level of pre-hospital and inter-hospital emergency care that includes basic life support functions. (including cardiopulmonary resuscitation (CPR) plus cardiac monitoring, cardiac defibrillation, telemetered electrocardiography, administration of antiarrhythmic agents, intravenous therapy, administration of medications, drugs and solutions, use of adjunctive medical devices, trauma care, and other authorized techniques and procedures) initiated for the treatment of real or potential acute life threatening conditions under the direction of a physician licensed to practice medicine in all of its branches or a Registered Professional Nurse/MICN or Registered

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*Professional Nurse/Field RN, and where authorized by the Project Medical Director in an Illinois Department of Public Health approved advanced life support system.* (Section 4.01 of the Act).<sup>7</sup>

*"Advanced Life Support-Mobile Intensive Care Services (ALS/MIC/ALS)" means a hospital providing with the approval of the Illinois Department of Public Health (See Subpart D of this Part), pre-hospital emergency medical care through the use of advanced life support-mobile intensive care personnel, equipment and vehicles under the direction of a Project Medical Director.* (Section 4.02 of the Act).<sup>7</sup>

*"Advanced Life Support Personnel" means persons engaged in the provision of advanced life support, as defined and regulated by this Part-promulgated-pursuant-to-the-Act this Part.* (Section 4.03 of the Act).<sup>7</sup>

*"Aeromedical crew member" or "Watercraft crew member" or "Off-road SEMSV crew member" means an individual, other than an EMS pilot, who has been approved by a SEMSV Medical Director for specific medical duties in a helicopter or fixed-wing aircraft, on a watercraft, or on an off-road SEMSV used in a Department-certified SEMSV Program (See Sections 535.932(a) and (b), or 535.940(a)(8)(B) through (D), or 535.950(a)(7)(A) and (B) of this Part).*

*"Alternate Project Medical Director" or "Alternate PMD" means the physician who is designated by the Resource Hospital to direct the ALS/ILS operations in the absence of the Project Medical Director.*

*"Ambulance" means any publicly or privately owned vehicle that is specifically designed, constructed or modified and equipped, and is intended to be used for, and is maintained or operated for the emergency transportation of persons who are sick, injured, wounded or otherwise incapacitated or helpless.* (See Subpart C of this Part.)<sup>7</sup> (Section 4.05 of the Act).<sup>7</sup>

*"Ambulance Service Provider" or "Ambulance Provider" means any individual, group of individuals, corporation, partnership, association, trust, joint venture, individual doing business under an assumed name, unit of local government or other public or private ownership entity which owns and operates a business or service utilizing one or more ambulances or EMS vehicles for the transportation of emergency patients.*

*"Area-wide Hospital Emergency Medical Services (AHES) Committees" means those bodies formed pursuant to Section 1.1 of the Hospital Emergency Service Act (Ill. Rev. Stat. 1991, ch. 111 1/2, par. 86.1) [210 ILCS 80/1.1], and in compliance with the Hospital Licensing Requirements (77 Ill. Adm. Code 250.730).*

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*"Associate Hospital" means a hospital participating in an approved EMS System in accordance with the EMS System Program Plan, fulfilling the same clinical and communications requirements as the Resource Hospital. This hospital has neither the primary responsibility for conducting the mobile intensive care personnel training program nor the responsibility for the overall operation of the EMS System program. The Associate Hospital must have a basic or comprehensive Emergency Department with a 24-hour physician coverage. It must have a functioning Intensive Care Unit and/or a Cardiac Care Unit. This hospital agrees to replace medical supplies and provide for equipment exchange for participating EMS vehicles.*

*"Associate Hospital EMS Coordinator" means the EMT-P or Registered Nurse at the Associate Hospital who shall be responsible for duties in relation to the ALS or ILS System, in accordance with the Department-approved EMS System Program Plan.*

*"Associate Hospital EMS Medical Director" means the physician at the Associate Hospital who shall be responsible for the day-to-day operations of the Associate Hospital in relation to the ALS or ILS System, in accordance with the Department-approved EMS System Program Plan.*

*"Basic Life Support (BLS) Services" means the rendering of basic level of pre-hospital and inter-hospital emergency care, including but not limited to airway management, cardiopulmonary resuscitation, control of shock and bleeding and splinting of fractures, as outlined in a basic emergency care course approved by the Department and meeting the current national curriculum of the United States Department of Transportation. (Section 4.06 of the Act).<sup>7</sup>*

*"Central Communications System" means a radio and communications command and control center or centers responsible for accepting calls from the public for emergency medical services, for dispatching emergency medical services personnel and vehicles, for radio coordination of emergency medical services vehicles and personnel, for coordination of medical communications between emergency medical services personnel and public safety agencies, and where applicable, for coordination and management of radio frequencies devoted to biomedical telemetry. (Section 4.07 of the Act).<sup>7</sup>*

*"Channel, Half-Duplex" means a radio channel that transmits and receives signals, but in only one direction at a time.*

*"Consumer" means a person in this State who is a recipient or potential recipient of the services provided by an emergency medical services system, who receives no direct or indirect personal, financial, or professional benefit as a result of an association with*

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health care or emergency services other than that generally shared by the public at large, and who is not otherwise considered a provider under the provisions of ~~this~~ the Act. (Section 4.08 of the Act)⁻

"Department" means the Department of Public Health, State of Illinois. (Section 4.09 of the Act)⁻

"Director" means the Director of the Department of Public Health, State of Illinois. (Section 4.10 of the Act)⁻

"Dysrhythmia" means a variation from the normal electrical rate and sequences of cardiac activity, also including abnormalities of impulse formation and conduction.

"Effective Radiated Power (ERP)" means the power gain of a transmitting antenna multiplied by the net power accepted by the antenna from the connected transmitter.

"Electrocardiogram" means a single lead rhythm strip graphic recording of the electrical activity of the heart by a series of deflections which represent certain components of the cardiac cycle.

"Emergency" means a condition or situation in which an individual declares a need for immediate medical attention or when that need is declared by emergency medical personnel or a public safety official. (Section 4.11 of the Act)⁻

"Emergency Medical Services (EMS) System or System" means an organization of providers which through a program plan submitted to and approved by the Department (pursuant to Subpart D of this Part) entitles a hospital to utilize qualified personnel specified in the Act to provide or coordinate pre-hospital and inter-hospital emergency care at an advanced or intermediate level, to victims of illness or injury within the area specified in the program plan. Advanced or intermediate level services may include the utilization of BLS Level Services. One hospital in each program plan must be designated as the resource hospital. All hospitals and ambulance providers participating in an EMS System must specify their level of participation in the program plan. (Section 4.18 of the Act)⁻

"Emergency Medical Services System Survey" means a questionnaire which provides data to the Department for the purpose of compiling annual reports.

"Emergency Medical Services Vehicle (EMS vehicle)" means any vehicle used for BLS, ILS or ALS, as a special EMS unit or rescue vehicle, operating within an approved EMS System.

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"Emergency Medical Technician-Ambulance or "EMT-A" means a person who has successfully completed a course of instruction in basic life support services as required and is currently licensed by the Department in accordance with standards prescribed by the Act ~~and this Part~~ and this Part, who provides emergency medical services. (Section 4.12 of the Act)⁻

"Emergency Medical Technician-Basic" or "EMT-B" means Emergency Medical Technician-Ambulance (EMT-A).

"Emergency Medical Technician Intermediate" or "EMT-I" means an EMT-A currently licensed by the Department who has completed a Department approved course of instruction (pursuant to Subpart F of this Part) in specific advanced life support-mobile intensive care services and who is currently functioning in a program approved by the Department to provide such services under the supervision and control of a Project Medical Director. No sponsorship or employment shall be required for training or holding licensure as an EMT-I. (Section 4.15 of the Act)⁻

"Emergency Medical Technician-Paramedic or "EMT-P" means a person who has successfully completed a Department approved course of instruction (pursuant to Subpart G of this Part) in advanced life support-mobile intensive care services and is currently licensed by the Department. No sponsorship or employment shall be required for training or holding license as an EMT-P. (Section 4.13 of the Act)⁻

"EMS System Coordinator(s)" means the designated individual(s) responsible to the Project Medical Director and Project Director for coordination of the educational and functional aspects of the System program.

"EMS System Program Plan" means the document prepared by the Resource Hospital and approved by the Department which describes the EMS System program and directs the program's operation (see Subpart D of this Part).

"FCC" means the Federal Communications Commission.

"Fixed-wing aircraft" means an engine-driven aircraft that is heavier than air, and is supported in-flight by the dynamic reaction of the air against its wings.

"Health Systems Agency" means a health systems agency as defined in 42 USC 300 L-1 (a). (Section 4.14 of the Act)⁻

"Helicopter" or "Rotorcraft" means an aircraft that is capable of vertical take-offs and landings, including maintaining a hover.



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"Hospital" has the meaning ascribed to it in the Hospital Licensing Act (Ill. Rev. Stat. 1991, ch. 111 1/2, par. 142 et seq.) [210 ILCS 85]. (Section 4.04 of the Act)✓

"Instrument Flight Rules" or "IFR" means the operation of an aircraft in weather minimums below the minimums for flight under visual flight rules (VFR). (See General Operating and Flight Rules, 14 CFR 91.115 through 91.129.)✓

"Instrument Meteorological Conditions (IMC)" means meteorological conditions expressed in terms of visibility, distance from clouds and ceiling which requires Instrument Flight Rules.

"Intermediate Life Support Care" or "ILS" means an intermediate level of pre-hospital and inter-hospital emergency care that includes BLS Care, plus intravenous cannulation and fluid therapy, invasive airway management, trauma care, and other authorized techniques and procedures initiated for the treatment of real of potential acute life-threatening conditions, under the direction of a physician licensed to practice medicine in all of its branches or a Registered Professional Nurse/MICN or Registered Professional Nurse/Field RN and where authorized by the Project Medical Director in a Department approved EMS System. (Section 4.19 of the Act)✓

"Intermediate Life Support Services" means a hospital providing, with the approval of the Department (See Subpart D of this Part), pre-hospital and inter-hospital emergency medical care through the use of Intermediate Life Support mobile intensive care personnel, equipment and vehicles, under the direction of a Project Medical Director. (Section 4.20 of the Act)✓

"Mobile Radio" means a two-way radio installed in an EMS vehicle which may not be readily removed.

"Off-Road Specialized Emergency Medical Services Vehicle" or "Off-Road SEMSV" or "Off-Road EMS Vehicle" means a motorized cart, golf cart, ATV (all-terrain-vehicle), or amphibious vehicle which is not intended for use on public roads.

"Participating Hospital" means a hospital participating in an approved EMS System in accordance with the EMS System Program Plan, which may or may not have monitoring capabilities and which receives patients transported by System EMS vehicles under the direction of the Project Director or PMD designee. This hospital agrees to replace medical supplies and provide for equipment exchange for participating EMS vehicles.

"Physician" means any person licensed to practice medicine in all of

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its branches under the Medical Practice Act of 1987 (Ill. Rev. Stat. 1991, ch. 111, pars. 4400-1 et seq.) [225 ILCS 60].

"Pilot" or "EMS Pilot" means a pilot certified by the Federal Aviation Administration who has been approved by a SEMSV Medical Director to fly a helicopter or fixed-wing aircraft used in a Department-certified SEMSV Program. (See Section 535.931 of this Part.)✓

"Portable Radio" means a hand-held radio which accompanies the user during the conduct of emergency medical services.

"Pre-Hospital Care" means those emergency medical services rendered to emergency patients for analytic, resuscitative, stabilizing, or preventive purposes, precedent to and during transportation of such patients to hospitals. (Section 4.16 of the Act)✓

"Pre-Hospital Care Provider or System Participant" means any EMT-A, EMT-B, I, P, Ambulance, Ambulance Provider, EMS Vehicle, Associate Hospital, Participating Hospital, EMS System Coordinator, Associate Hospital EMS Coordinator, Associate Hospital EMS Medical Director, Field RN, MICN or Physician serving on an ambulance or giving voice orders over an EMS System and is subject to suspension by the Project Medical Director of that System in accordance with the policies of the EMS System Program Plan approved by the Department.

"Project Director" means the administrator, appointed by the Resource Hospital with the approval of the Project Medical Director, responsible for the administration of the EMS System.

"Project Medical Director" or "PMD" means the physician appointed by the Resource Hospital who has the responsibility and authority for total management of the EMS System. (See Sections 535.210(h) and 535.230(a) of this Part.)✓

"Registered Nurse" or "Registered Professional Nurse" or "RN" means a person who is licensed as a professional nurse under the Illinois Nursing Act of 1987 (Ill. Rev. Stat. 1991, ch. 111, pars. 3501 et seq.) [225 ILCS 65].

"Registered Professional Nurse/Field RN" means a Registered Nurse, licensed under the Illinois Nursing Act of 1987 as amended, (Ill. Rev. Stat. 1991, ch. 111, pars. 3501 et seq.), who has been approved by the Project Medical Director in a Department-approved EMS System, and who has satisfactorily completed additional supplementary training including but not limited to courses in extrication, telemetry and communications, advanced cardiac life support, including defibrillation and intubation or its equivalent, and either trauma nurse specialist or nurse trauma life support or their equivalents as

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approved by the Project Medical Director (Section 4.21 of the Act):

"Registered Professional Nurse/MCN" or "Mobile Intensive Care Nurse" means a Registered Nurse, licensed under ~~the~~ the Illinois Nursing Act of 1987, ~~as amended (111--Rev--Stat--1997--ch--111--para--3501-et seq., who has satisfactorily completed the Mobile Intensive Care Nurse course, including training in telemetry and communication, advanced Cardiac Life Support, and a Pre-Hospital Trauma Support Course or its equivalent, as approved by the Department. (Section 4.21(a) of the Act).~~

"Resource Hospital" means the hospital with the authority and the responsibility for an EMS System as outlined in the Department-approved EMS System Program Plan. (See Subpart D of this Part.) The Resource Hospital, through the Project Medical Director, assumes responsibility for the entire program including the clinical aspects, operations and educational programs. This hospital agrees to replace medical supplies and provide for equipment exchange for participating EMS vehicles.

"SEMSV Medical Control Point" or "Medical Control Point" means the communication center from which the SEMSV Medical Director or his or her designee issues medical instructions or advice to the aeromedical, watercraft, or off-road SEMSV crew members.

"SEMSV Medical Director" or "Medical Director" means the physician appointed by the SEMSV Program who has the responsibility and authority for total management of the SEMSV Program, subject to the requirements of the EMS System of which the SEMSV Program is a part. (See Section 535.920(e) of this Part.)

"SEMSV Program" or "Specialized Emergency Medical Services Vehicle Program" means a program operating within an EMS System, pursuant to a program plan submitted to and certified by the Department, utilizing specialized emergency medical services vehicles to provide emergency transportation to sick or injured persons.

"Specialized Emergency Medical Services Vehicle" or "SEMSV" means a vehicle or conveyance, other than those owned or operated by the federal government, that is primarily intended for use in transporting the sick or injured by means of air, water, or ground transportation, that is not an ambulance as defined in the Act. The term includes watercraft, aircraft and special purpose ground transport vehicles not intended for use on public roads (Section 4.30 of the Act). "Primarily intended", for the purposes of this definition, means one or more of the following:

Over fifty (50) percent (50) of the vehicle's operational (e.g. in-flight) hours are devoted to the emergency transportation of

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the sick or injured; The vehicle is owned or leased by a hospital or ambulance provider and is utilized for the emergency transportation of the sick or injured; The vehicle is advertised as a vehicle for the emergency transportation of the sick or injured; The vehicle is owned, registered or licensed in another State and is utilized on a regular basis to pick up and transport the sick or injured within or from within this State; or The vehicle's structure or permanent fixtures have been specifically designed to accommodate the emergency transportation of the sick or injured.

"State Emergency Medical Services Disciplinary Review Board" means a five-member board appointed by the Governor to review and affirm, reverse or modify orders to suspend an EMT or other individual provider from participation within an EMS System (Section 10.2 of the Act) (See Sections 535.265 and 535.270 of this Part.)

"System Participation Suspension" means the suspension from participation within an EMS System of an individual or individual provider, as specifically ordered by that System's Project Medical Director.

"System Review Board" or "Board" means a panel of individuals assembled within an EMS System for the purpose of reviewing a decision by the Project Medical Director to suspend from participation an EMT or other individual provider participating within that System. The Board shall consist of four (4) voting members and a chairperson who shall vote only in the event of a tie. The Project Medical Director shall appoint as two (2) standing members of the Board, the System Project Director or designee and an emergency room physician from within the System who is not the Project Medical Director. The remaining two (2) voting members and chairperson shall be selected by the provider from a list provided by the Project Medical Director. That list shall consist of the names of six (6) providers from within the System who are in the same provider category and level. If the provider is in a category or level which consists of fewer than six (6) other providers, he or she may choose the two (2) voting members and chairperson from any of the System's provider lists.

"Telecommunications Equipment" means a radio capable of transmitting and/or receiving voice and electrocardiogram (ECG) signals.

"Telemetry" means the transmission of data by wire, radio, or other means from remote sources to a receiving station for recording and analysis.

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"Unit Identifier" is a number assigned by the Department for each EMS vehicle in the State to be used in radio communications.

"Watercraft" means a nautical vessel, boat, aircraft, hovercraft or other vehicle that operates in, on or across water.

"911" means an emergency answer and response system in which the caller need only dial 9-1-1 on a telephone to obtain emergency services including police, fire, medical ambulance and rescue.

(Source: Amended at 19 Ill. Reg. \_\_\_\_\_, effective \_\_\_\_\_)

## Section 535.20 Incorporated Materials

The following regulations, standards and statutes are incorporated or referenced in this Part.

- a) Federal guidelines, statutes and regulations:
  - 1) U.S. Code 42, The Public Health and Welfare, 42 USC 300 L-1(a) (1991). (See Section 535.100.)
  - 2) United States General Services Administration, Federal Specification for Ambulance, RKK-A-1822C (1985), which may be obtained from General Services Administration, Specifications Section, Room 6654, 7th and D Streets, S.W., Washington, D.C. 20407. (See Section 535.150.)
  - 3) United States Department of Transportation, Emergency Medical Technician - Ambulance Basic: National Standard Curriculum (#984 1994), which may be obtained from the Superintendent of Documents, U.S. Government Printing Office, Washington, D.C. 20402. (See Sections 535.215(a); 535.300(c) and (h); 535.310(a); 535.335(b); 535.400(c) and (h); 535.410(a); 535.420(a) and (b); 535.500(c) and (e); 535.510(a) and (d); and 535.530(d).)
  - 4) United States Department of Transportation, Emergency Medical Technician - Intermediate: National Standard Curriculum (1985), which may be obtained from the Superintendent of Documents, U.S. Government Printing Office, Washington, D.C. 20402. (See Sections 535.215(a); 535.216; 535.400(c) and (d); 535.410(a); 535.420(a) and (b); 535.430(b); and 535.432(b).)
  - 5) United States Department of Transportation, Emergency Medical Technician - Paramedic: National Standard Curriculum (1985), which may be obtained from the Superintendent of Documents, U.S. Government Printing Office, Washington, D.C. 20402. (See Sections 535.215(a); 535.500(c) and (e); 535.510(a) and (d); 535.530(c); 535.532(b); 535.810(b) and (c); and 535.850(a) and (b).)
  - 6) 47 CFR 90 (1990) (Section 535.60(a)-7).
  - 7) Air Taxi Operations and Commercial Operators (14 CFR 135, (1990), Subparts A, Sections 135.1 through 135.43, B, Sections 135.61 through 135.125, C, Sections 135.141 through 135.185, D, Sections

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135.201 through 135.229, E, Sections 135.241 through 135.247, F, Sections 135.261, J, Sections 135.411 through 135.443-).

## b) State of Illinois Statutes:

- 1) Hospital Emergency Services Act (Ill. Rev. Stat. 1991, ch. 111 1/2, par. 86 et seq.) [210 ILCS 80]. (See Section 535.10.)
- 2) Hospital Licensing Act (Ill. Rev. Stat. 1991, ch. 111 1/2, par. 142 et seq.) [210 ILCS 85]. (See Section 535.10.)
- 3) Medical Practice Act of 1987 (Ill. Rev. Stat. 1991, ch. 111, par. 4400-1 et seq.) [225 ILCS 60]. (See Section 535.10.)
- 4) The Illinois Nursing Act of 1987 (Ill. Rev. Stat. 1991, ch. 111, par. 3501 et seq.) [225 ILCS 65]. (See Section 535.10.)
- 5) Code of Civil Procedure (Ill. Rev. Stat. 1991, ch. 110, par. 8-2101 et seq.) [735 ILCS 5]. (See Section 535.700(g).)

## c) State of Illinois Regulations

- 1) Rules of Practice and Procedure in Administrative Hearings (77 Ill. Adm. Code 100). (See Sections 535.140(d) and 535.250(g).)
- 2) Hospital Licensing Requirements (77 Ill. Adm. Code 250). (See Sections 535.10, 535.200(d) and 535.210(e).)

d) All incorporations by reference of federal regulations and the standards of nationally recognized organizations refer to the regulations and standards on the date specified and do not include any additions or deletions subsequent to the date specified.

(Source: Amended at 19 Ill. Reg. \_\_\_\_\_, effective \_\_\_\_\_)

## Section 535.150 Ambulance Licensing Requirements

## a) Vehicle Design

- 1) Each vehicle used as an ambulance after the effective date of this Part shall comply with the criteria established by the U.S. General Services Administration's Specification for Ambulance (RKK-A-1822C), with the exception of the following Sections: 1.2.1 Ambulance Type - "Star of Life"; 3.8.2 Ambulance Emergency Lighting; 3.16.2 Color, paint, and finish; 3.16.4 Emblems and Markings; and 3.22 as determined by the Department by an inspection.
  - 2) Each vehicle that does not meet the U.S. General Services Administration's Ambulance Design Standards (RKK-A-1822C) as determined by the Department by an inspection, but is operational on the effective date of this Part shall be considered to be in compliance with this Part until there is a transfer of ownership.
- b) Equipment Requirements - Basic Life Support Vehicles
- Each ambulance used as a Basic Life Support vehicle shall meet the following equipment requirements, as determined by the Department by an inspection:
- 1) Stretchers, Cots & Litters
    - A) Primary Patient Litter



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for rinsing, and suction tube accessible to the technician at the head of the primary litter  
iv) Has tube of sufficient length to reach the head of the primary and secondary litters  
v) Is fitted with large-bore, non-kinking, translucent suction tubing  
vi) Has 3 each sterile, single-use suction catheters with on/off control in small, medium and large sizes  
vii) Has 3 each tonsil tip suction handles or catheters, single-use  
viii) Can be disassembled for ease of cleaning and decontamination

- B) Portable  
i) Is powerful enough to provide an airflow of at least 12 liters per minute at the end of the suction tube, and a vacuum of at least 300 mm Hg (11.811 inches) to be reached within 12 seconds after tube is clamped  
ii) Has 3 each tonsil tip suction handles or catheters, single-use  
iii) Is fitted with large-bore, non-kinking, translucent suction tubing with sufficient length so that unit does not have to be placed on top of patient  
iv) Has an unbreakable collection bottle capable of holding at least 500 ml  
v) Has 3 each sterile, single-use suction catheters with on/off control in small, medium and large sizes  
vi) Operates from an integral battery supply which is rechargeable or gas powered and will allow the unit to meet the air flow and suction requirements of this Section for at least 15 minutes. If the portable suction unit is powered by pressurized oxygen in a cylinder, it will be attached to its own oxygen cylinder and not to spare D or E cylinders intended for portable oxygen use  
vii) A manually operated suction device is acceptable if approved by the Department.

- 4) Medical Equipment  
A) Squeeze bag-valve-mask ventilation unit with adult size transparent mask and child size bag-valve-mask ventilation unit with child and infant size transparent masks  
B) Lower-extremity traction splint, adult size  
C) Blood pressure cuff, 1 each, adult and pediatric, and gauge  
D) 2 each stethoscopes  
E) Pneumatic counterpressure trouser kit, adult size  
F) Long spine board with 2 each torso straps, 9 feet in length, 1 each chin and head strap  
G) Short spine board with 2 each torso straps, 9 feet in length, 1 each chin and head strap or vest type (wrap

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i) Wheeled  
ii) At least 75" to 80" long and 22" wide  
iii) Allows for the head to be tilted upward to a 60 degree semi-sitting position  
iv) Provided with a crash stable, quick release, 3 point fastener  
v) Designed to insure the frame or handle will permit up to four persons to carry the litter  
B) Secondary Patient Litter  
Shall be folding and/or collapsible type

- 2) Oxygen  
A) Installed  
i) Is supplied by at least 3000 liters of oxygen and tank is secured in at least 3 positions so as to provide maximum safety for patients and personnel (M cylinder)  
ii) Is equipped with a reducing valve (from 2000 PSI cylinder to 50 PSI) with pressure gauge  
iii) Is equipped with yoke  
iv) Has a pressure gauge flow meter that will deliver up to 15 liters per minute  
v) Has delivery tubes  
vi) Has oxygen outlet accessible to the technician at the head of the primary litter  
vii) Has one each adult, child and infant sized oxygen masks that are semi-open, valveless, transparent and disposable  
viii) Has 3 each nasal cannulas  
B) Portable  
i) Is of at least 300 liter capacity (D or E cylinder)  
ii) Is equipped with yoke  
iii) Has pressure gauge flow meter (not gravity-dependent) that will deliver up to 15 liters per minute  
iv) Has delivery tube  
v) Has one each adult, child and infant sized oxygen masks that are semi-open, valveless, transparent and disposable  
vi) Has an additional full 300 liter capacity cylinder carried on the vehicle (D or E cylinder)

- 3) Suction  
A) Installed  
i) Is powerful enough to provide an airflow of over 20 liter/minute at the end of the delivery tube and a vacuum of over 300 mm Hg (11.811 inches) when the tube is clamped  
ii) Has vacuum adjustable for use with children and intubated patients  
iii) Has suction yoke, unbreakable collection bottle, water

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- around) extrication device kit
- H) Airway, oropharyngeal - adult, child and infant sizes
- I) Bandage shears, 1 each
- J) Padded board splint, 2 each 15"x3" (or equivalent)
- K) Padded board splint, 1 each 4'6"x3" (or equivalent) and padded board splint, 3'x3"
- L) Rigid cervical collars - 1 each, small, medium and large sizes. Shall be made of rigid material to minimize flexion, extension and lateral rotation of the head and cervical spine when spine injury is suspected
- M) Sand bags - 4 each, about 4 inches in width, 2 inches in thickness and 12 inches in length or lateral C-Spine and head immobilization device(s)
- N) Patient restraints, arm and leg, sets
- O) Hypothermic thermometer or electronic thermometer capable of aiding in the diagnosis of hypothermia - 1 each
- 5) Medical Supplies
- A) Trauma dressing - 6 each
- B) Sterile gauze pads - 20 each, 4 inches by 4 inches
- C) Bandages, soft roller, self adhering-type, 10 each, 6 inches by 5 yards
- D) Vaseline gauze - 2 each, 3 inches by 8 inches
- E) Adhesive tape rolls - 2 each
- F) Triangular bandages or slings - 5 each
- G) Burn sheets - 2 each, sterile
- H) Sterile solution (normal saline) - 4 each, 500 cc or 2 each, 1,000 cc plastic bags
- I) Aluminum foil roll or Silver Swaddler - 1 each
- J) Bite sticks - 2 each
- K) Obstetrical kit, sterile - 1 each, pre-packaged with instruments
- L) Syrup of Ipecac, 1 each
- M) Cold packs, 3 each
- N) Emesis basin - 1 each
- O) Drinking water - 1 quart, in non-breakable container, Sterile water may be substituted
- P) Disposable drinking cups - 5 each
- Q) Ambulance emergency run reports - 10 each, on a form prescribed by the Department or one that contains the data elements from the Department-prescribed form, as follows:
- i) For Basic Life Support vehicles, including, but not limited to, time of call and response times, date, location, type of call, site of injury, mechanism of injury, injury prevention devices, patient assessment, patient care provided at the Basic Life Support Level, method of transportation, radio communication, hospital destination, driver and EMT/Field RN identification numbers.

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- ii) For Intermediate Life Support vehicles, including, but not limited to, time of call and response times, date, location, type of call, site of injury, mechanism of injury, injury prevention devices, patient assessment, patient care provided at the Intermediate Life Support Level, method of transportation, radio communication, hospital destination, driver and EMT-Intermediate/Field RN identification numbers.
- iii) For Advanced Life Support vehicles, including, but not limited to, time of call and response times, date, location, type of call, site of injury, mechanism of injury, injury prevention devices, patient assessment, patient care provided at the Advanced Life Support level, method of transportation, radio/telemetry communication, hospital destination, driver and EMT-Paramedic/Field RN identification numbers.
- iv) An ambulance Emergency Run Report will be completed and a copy filed with the Receiving Emergency Department prior to leaving the Receiving Hospital.
- R) Pillows - 2 each, for ambulance cot
- S) Pillowcases - 2 each, for ambulance cot
- T) Sheets - 2 each, for ambulance cot
- U) Blankets - 2 each, for ambulance cot
- V) CPR mask - 1 each, with safety valve to prevent backflow of expired air and secretions
- W) Hot packs - 3 each
- X) Urinal - 1 each
- Y) Bedpan - 1 each
- Z) Remains bag - 1 each
- AA) Non-porous disposable gloves
- BB) Impermeable red or biohazard-labelled isolation bag
- CC) Face protection through any combination of masks and/or eye protection and/or face shields
- c) Equipment Requirements - Intermediate and Advanced Life Support Vehicles
- Each ambulance used as an Intermediate Life Support vehicle or as an Advanced Life Support vehicle shall meet the requirements in subsection (b) of this Section and shall also comply with the equipment and supply requirements as determined by the Project Medical Director in the System in which the ambulance and its crew participate.
- d) Equipment Requirements - Rescue and/or Extrication
- Each ambulance shall document the mechanism and agency that provides rescue services, and carry the following:
- 1) Wrecking bar, 24"
  - 2) Goggles for eye safety
  - 3) Fire extinguisher - 2 each, ABC dry chemical, minimum 5 pound unit with quick release brackets. One mounted in driver

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- e) Equipment Requirements - Communications Capability  
Each ambulance must have ambulance to hospital radio communications capability and meet the requirements provided in Section 535.50 of this Part.
- f) Personnel Requirements

- 1) Each ambulance shall be staffed by a minimum of two EMTs, Field RNs or physicians on all emergency calls.
- 2) Each Basic Life Support vehicle using automated defibrillation shall be staffed by a minimum of one EMT-A EMT-B approved by the Project Medical Director for automated defibrillation, a Field RN or physician and one other EMT, Field RN or physician.
- 3) Each ambulance used as an Intermediate Life Support vehicle shall be staffed by a minimum of one EMT-I, Field RN or physician and one other EMT, Field RN or physician. Each ILS vehicle using automated defibrillation shall be staffed by a minimum of one EMT-I approved by the Project Medical Director for automated defibrillation, a Field RN or physician and one other EMT, Field RN or physician. Each ambulance used as an Advanced Life Support vehicle shall be staffed by a minimum of one EMT-B, Field RN or physician and one other EMT, Field RN or physician.
- 4) Each ambulance provider that operates an emergency transport vehicle shall ensure through written agreement with the EMS System that the agency providing emergency care at the scene and en route to a hospital meets the requirements of this Subpart.

## g) Operational Requirements

- 1) Any operation of an ambulance while transporting a patient to a hospital shall be done in accordance with the requirements of the Act and this Part.
- 2) A licensee shall operate its ambulance in compliance with this Part, twenty-four hours a day, every day of the year. Except as required below, each individual vehicle within the ambulance service shall not be required to be operated twenty-four hours a day, as long as at least one vehicle for each level of service covered by the license is in operation at all times. An ALS vehicle can be used to provide coverage at either an ALS or BLS level, and such coverage will meet the requirements of this Section.
- A) At the time of application for initial or renewal licensure, the applicant or licensee shall submit to the Department for approval a list containing the anticipated hours of operation for each vehicle covered by the license.
- i) A current roster shall also be submitted which lists the EMTs, Field RNs and/or physicians who are employed or available to staff each vehicle during its hours of operation. The roster shall include each staff

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person's name, license number, and daytime telephone number, and shall state whether such person is generally scheduled to be on site or on call.

- ii) An actual or proposed 4 week staffing schedule shall also be submitted, which covers all vehicles, includes staff names from the submitted roster and states whether each staff member is scheduled to be on site or on call during each work shift.
- B) Licensees that are part of an EMS System shall be required to obtain the Project Medical Director's approval of their vehicles' hours of operation prior to submission to the Department. A Project Medical Director may require specific hours of operation for individual vehicles in order to assure appropriate coverage within the System.
- C) A licensee that advertises its service as operating a specific number of vehicles or more than one vehicle shall state in such advertisement the hours of operation for those vehicles, if individual vehicles are not available twenty-four hours a day. Any advertised vehicle for which hours of operation are not stated shall be required to operate twenty-four hours a day.
- 3) For each patient transported to a hospital, the ambulance staff shall, at a minimum, measure and record on the emergency run report the patient's blood pressure, pulse, respiration, skin condition, level of consciousness, chief complaint and any treatment rendered.
- 4) A licensee shall provide emergency service within the service area on a per need basis without regard to the patient's ability to pay for such service.
- 5) A licensee shall provide documentation of procedures to be followed when a call for service is received and a vehicle is not available, including copies of mutual aid agreements with other ambulance providers.
- 6) A licensee shall operate its ambulance at a level not exceeding the level for which it is licensed (basic life support, intermediate life support, advanced life support), unless such vehicle is operated pursuant to an EMS System-approved in-field service level upgrade. (See Section 535.210(i)(7) of this Part.)
- 7) When a basic life support ambulance has been requested by telephone and the estimated response time is more than 5 minutes, the dispatcher shall advise the person making the request of the estimated time of arrival of the ambulance. (Section 7.1 of the Act)
- h) AGENCY NOTE: Any provider may request a waiver of any requirements in this Section under the provisions of Section 535.750. Examples of situations in which waivers of the requirement that ambulances carry pneumatic counter pressure trouser kits will be granted are as follows: When the Department is notified that a hospital or Project



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Medical Director will not order the use of a pneumatic counter pressure trouser kit or M.A.S.T. trousers by emergency medical personnel on a Basic Life Support Vehicle; and that a waiver is necessary to allow adequate time or progressive procurement of the pneumatic counter pressure trouser kits over a period of one to three years for those ambulance agencies that claim financial hardship.

(Source: Amended at 19 Ill. Reg. \_\_\_\_\_, effective \_\_\_\_\_)

## SUBPART D: EMERGENCY MEDICAL SERVICES SYSTEM PROGRAM

## Section 535.210 EMS System Program Plan

An Emergency Medical Services (EMS) System Program Plan shall contain the following information:

- a) The name and address of the Resource Hospital;
- b) The names and resumes of the following persons:
  - 1) The Project Medical Director,
  - 2) The Project Director,
  - 3) The EMS System Coordinator;
- c) The names and addresses of each Associate or Participating Hospital;
- d) The names and addresses of each ambulance provider participating within the EMS System;
- e) A letter from the appropriate AHES committee which contains the following:
  - 1) A statement that the Resource Hospital meets the requirements of a basic or comprehensive emergency facility (See "Basic" and "Comprehensive" emergency services as defined in Section 250.710 of the Hospital Licensing Requirements (77 Ill. Adm. Code 250)),
  - 2) A brief description of the AHES area including categorization scheme, a specialty availability and critical care referral patterns, and
  - 3) A statement that the proposed EMS System Program Plan has been reviewed and approved;
- f) A map of the EMS System's service area indicating the locations of all hospitals and ambulance providers participating in the System;
- g) Letters of commitment from the following persons at the Resource Hospital, which describe the commitment of the writer and his or her office to the development and ongoing operation of the EMS System, and which state the writer's understanding of and commitment to any necessary changes such as emergency department staffing and educational requirements:
  - 1) The Chief Executive Officer of the hospital,
  - 2) The Chief of the Medical Staff, and
  - 3) The Director of the Nursing Services;
- h) A letter of commitment from the Project Medical Director which describes the PMD's agreement to:

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- 1) Be responsible for the ongoing education of all System personnel including coordinating didactic and clinical experience;
- 2) Develop written standing orders (treatment protocols, standard operating procedures) to be used in the PMD's absence and certify that all involved personnel will be knowledgeable in emergency care and capable of providing treatment and using communications equipment once the program is operational;
- 3) Provide the name and resume of the Alternate Project Medical Director;
- 4) Be responsible for supervising all personnel participating within the System, as described in the System Program Plan;
- 5) Develop or approve one or more ambulance emergency run reports (run sheets) covering all types of ambulance runs performed by System ambulance providers;
- 6) Ensure that the Department has access to all records, equipment and vehicles under the authority of the PMD, during any Department inspection, investigation or site survey;
- 7) Notify the Department of any changes in personnel providing pre-hospital care in accordance with the EMS System Program Plan approved by the Department;
- 8) Be responsible for the total management of the System, including the enforcement of compliance with the System Program Plan by all participants within the System;
- 9) Ensure that a copy of the application for renewal (a form supplied by the Department) is provided to every EMT-I or EMT-P within the System who has not been recommended for recertification by the Project Medical Director; and
- 10) Be responsible for compliance with the provisions of Sections 535.260 and 535.265 of this Part:
  - i) A description of the method(s) of providing EMS services which includes the protocols for:
    - 1) single vehicle response and transport;
    - 2) dual vehicle response;
    - 3) level of first response vehicle;
    - 4) level of transport vehicle;
    - 5) use of mutual aid agreements;
    - 6) informing the caller requesting an emergency vehicle of the estimated time of arrival when the vehicle response is estimated to be longer than six minutes; and
  - 7) In-Field Service Level Upgrades: An EMS System may establish protocols and procedures which allow ILS or ALS personnel to board a BLS vehicle in the field in order to render a higher level of prehospital emergency care. Such protocols shall, at a minimum, require the temporary transfer of the ILS or ALS equipment to the BLS vehicle. The higher-level personnel shall assume in-field responsibility for the patient during the remainder of the prehospital transport, and the vehicle will be recognized by the Department as approved for the higher level of

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- service during the remainder of that patient transport;
- j) A letter of commitment from each Associate or Participating Hospital within the System which includes the following:
- 1) Signed statements by the hospital's Chief Executive Officer, Chief of the Medical Staff and Director of the Nursing Service describing their commitments to the standards and procedures of the System;
  - 2) A description of how the hospital will relate to the EMS System Resource Hospital, its involvement in the ongoing planning and development of the program, and its utilization of the education and continuing education aspects of the program;
  - 3) A commitment to meet the System's educational standards for MICNs and Field RNs;
  - 4) An agreement to provide exchange of all drugs and equipment with all pre-hospital providers participating in the System;
  - 5) An agreement to utilize the standard treatment orders as established by the Resource Hospital;
  - 6) An agreement to follow the operational policies and protocols of the System;
  - 7) An agreement to participate in the training and continuing education of pre-hospital personnel;
  - 8) An agreement to collect and provide relevant data as determined by the Resource Hospital;
  - 9) A description of the hospital's data collection and reporting methods and the personnel responsible for maintaining all data;
  - 10) The names and resumes of the Associate Hospital EMS Medical Director and Associate Hospital EMS Coordinator;
  - 11) An agreement to allow the Department access to all records, equipment and vehicles relating to the System during any Department inspection, investigation or site survey; and
  - 12) If the hospital is a participant in another System, a description of how it will interact within both Systems and how it will ensure that communications interference as a result of this dual participation will be minimized;
- k) A letter of commitment from each ambulance provider participating within the System which includes the following:
- 1) For each EMS vehicle participating within the System:
    - A) The year, model, make, and vehicle identification number;
    - B) The license plate number;
    - C) The Department license number, unless exempt from Department licensure (See Section 9 of the Act);
    - D) The base location address; and
    - E) The level of service (advanced, intermediate or basic);
  - 2) A description of its role in providing advanced life support, intermediate life support, basic life support and patient transport services with the System;
  - 3) Definitions of the primary, secondary and outlying areas of response for each EMS vehicle used within the System;

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- 4) A map or maps indicating the base locations of each EMS vehicle, the primary, secondary and outlying areas of response for each EMS vehicle, the population base of each service area and the square mileage of each service area;
- 5) A commitment to optimum response times of 4-6 minutes in primary coverage areas, 10-15 minutes in secondary coverage areas, and 15-20 minutes in outlying coverage areas;
- 6) A commitment to ~~twenty-four~~ 24-hour coverage;
- 7) A commitment that within one 1+ year after Department approval of the EMS System, each ambulance at the scene of an emergency and during transport of emergency patients to and between hospitals will be staffed in accordance with the requirements of Section 535.150 (f)(1) and (2);
- 8) Copies of written mutual aid agreements with other providers and/or a description of the provider's own back-up system, which detail how adequate coverage will be ensured when an EMS vehicle is responding to a call and a simultaneous call is received for service within that vehicle's coverage area;
- 9) A statement that emergency services which an EMS vehicle is authorized to provide shall not be denied on the basis of the patient's inability to pay for such services;
- 10) An agreement to file an appropriate EMS run sheet or form for each emergency call, as required by the System;
- 11) An agreement to maintain the equipment required by Section 535.150 and by the System, in working order at all times, and to carry the medication as required by the System;
- 12) An agreement to notify the Project Medical Director of any changes in personnel providing pre-hospital care in the System in accordance with the policies in the System Manual;
- 13) A copy of its current FCC license(s);
- 14) A description of the mechanism and specific procedures used to access and dispatch the EMS vehicles within their respective service areas;
- 15) A list of all personnel providing pre-hospital care, their license numbers, expiration dates and levels of licensure (EMT-A, EMT-B, EMT-I, EMT-P), their Field RN or MD status;
- 16) An agreement to allow the Department access to all records, equipment and vehicles relating to the System during any Department inspection, investigation or site survey;
- 17) An agreement to allow the Project Medical Director or designee access to all records, equipment and vehicles relating to the System during any inspection or investigation by the PMD or designee to determine compliance with the System Program Plan;
- 18) Documentation that its communications capabilities meet the requirements of Section 535.50 of this Part;
- 19) Documentation that each EMS vehicle participating in the System complies with the vehicle design, equipment and extrication criteria as provided in Section 535.150(a)(1) and (b) of this

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Part; and

- 20) An agreement to follow the approved EMS policies and protocols of the System;
- 1) Descriptions and documentation of each communications requirement provided in Section 535.60 of this Part;
- m) A System Manual, the format of which shall be System specific as to organization, which shall contain but not be limited to subsections (1) through (11) of this subsection (m); and which except for training program examinations and quizzes, student and instructor evaluations, and any examinations used to test or monitor System participants' proficiency, shall be available to all System participants. The entire Manual shall be available to any agency authorized to evaluate, survey or accredit the program.
- 1) The Project Medical Director's written standing orders (treatment protocols, Standard Operating Procedures) to be used in the PMD's absence, including the circumstances under which the MICN will call the PMD or a designated physician to the operational control point, and what the nurse's limitations are;
- 2) A list of all equipment and drugs required for EMS vehicles;
- 3) The System's program and requirements for the training and continuing education of EMTs, Field RNs and MICNs including but not limited to:
  - A) Curriculum (EMT training programs shall be taught in accordance with the United States Department of Transportation (DOT) Emergency Medical Technician National Standard Curriculum--1984);
  - B) Teaching schedules;
  - C) Training program examinations, including the formats to be used (i.e., essay, multiple-choice, classroom or take-home quizzes, practical examinations);
  - D) Clinical experiences;
  - E) Training program entrance and successful completion requirements;
  - F) Training program student and instructor evaluations;
  - G) Clinical and didactic relicensure requirements, including a requirement that each EMT's continuing education records shall be kept on file at the Resource Hospital, and that copies shall be provided to the EMTs; and
  - H) System examinations, if any, used to test and monitor an EMT's continued proficiency to render the level of care for which the EMT is licensed;
  - I) A System may require that up to one-half of the yearly didactic continuing education hours that are required toward relicensure, as determined by the Department, be earned through attendance at System-taught courses;
  - J) Any didactic continuing education course which has received a State site code shall be accepted by the System, subject only to the requirements of subsection (m)(3)(I) of this

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Section:

- 4) Communications standards and protocols including:
  - A) The information contained in the System Program Plan relating to the requirements of Sections 535.60(a)(1), (2), (3) and (4), 535.60(b) and 535.60(g) of this Part;
  - B) Protocols ensuring that physician direction and voice orders to EMS vehicle personnel and other hospitals participating in the System are provided from the operational control point of the Resource or Associate Hospital; and
  - C) Protocols ensuring that voice orders via radio and using telemetry shall be given by or under the direction of the Project Medical Director or the PMD's designee, who shall be either an MICN, a Field RN or a physician;
- 5) Quality assurance measures for patient care, ambulance operation and System training activities, including but not limited to monitoring training activities to ensure that the instruction and materials are consistent with United States Department of Transportation training standards for EMTs and Section 4 and 13 of the Act, unannounced inspections of pre-hospital services, and internal provider self-assessments;
- 6) Data collection and evaluation methods which include:
  - A) The mechanism for collecting data from hospitals and pre-hospital providers;
  - B) A copy of the pre-hospital reporting form;
  - C) The method employed to evaluate data and to notify and correct patient care or reporting discrepancies; and
  - D) A sample of the information and data to be reported to the Department summarizing System activity;
- 7) Operational policies which delineate the respective roles and responsibilities of all providers in the System regarding the provision of emergency services, including:
  - A) Abuse of controlled substances by System personnel;
  - B) Resource Hospital overrides (situations in which Associate Hospital orders are overruled by the Resource Hospital);
  - C) Infectious disease and disinfection procedures;
  - D) Reporting and documentation of problems; and
  - E) Protocols for ILS/ALS System personnel to assess the condition of a patient being initially treated in the field by BLS personnel, for the purpose of determining whether a higher level of care is warranted and transfer of care of the patient to the ILS or ALS personnel is therefore appropriate. Such protocols shall include a requirement that neither the assessment nor the transfer of care can be initiated if it would appear to jeopardize the patient's condition, and shall require that such activities of the System personnel be done under the immediate direction of the Project Medical Director or designee;
- 8) Medical-Legal policies addressing:



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- A) A patient's right of refusal;
  - B) Minor patient/guardian consent;
  - C) Patient abandonment;
  - D) Coroner policy;
  - E) Emotionally disturbed patients;
  - F) Do not resuscitate situations;
  - G) Patient confidentiality/release of information;
  - H) Interaction with law enforcement/evidence;
  - I) Reporting of suspected crimes (i.e., child abuse);
  - J) Physician on the scene; and
  - K) Durable power of attorney for health care;
- 9) Durable power of attorney for health care; and the review of those decisions which the System has elected to follow in addition to those required by the Act;
- 10) The responsibilities of the EMS Coordinator(s), as designated by the Project Medical Director, including data evaluation, supervision of clinical, didactic and field experience training, and physician and nurse education as required; and
- 11) The responsibilities of the Project Director;
- n) If the Resource Hospital for a proposed EMS System is currently participating in an existing System, the following additional information must be provided:
- 1) A clear description of its current role and status within the existing System;
  - 2) Its rationale for separating from the existing System and developing its own program;
  - 3) A description of the methods to be used for ensuring the coordination of emergency services with adjacent Systems, including the System which it proposes to leave;
  - 4) A statement detailing the effect which the proposed change will have on the area's pre-hospital services and patient referral patterns;
  - 5) A statement summarizing the steps to be taken to ensure that the necessary quality and level of care will be maintained during the implementation phase of the proposed System;
  - 6) A statement detailing the effect which the proposed System will have on the current radio communications systems utilized in the area;
  - 7) A detailed description of its communications system design, including the expected delivery dates for equipment which has been purchased, leased or ordered; and
  - 8) If the proposed System intends to use, borrow or lease any communications equipment or facilities from an existing System, a copy of a specific contract or agreement authorizing such arrangement shall be attached;
- o) Written protocols for the transport of persons by ambulance or specialized emergency medical services vehicle to a hospital other than the nearest hospital or trauma center. (Section 10(c) of the Act)

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- 1) The protocols shall provide that a person shall not be transported to a hospital other than the nearest hospital, regional trauma center, or the nearest trauma center, unless the project medical director or his qualified designee has determined and certified that, based upon the reasonable risks and benefits to the patient, and based on the information available at the time:
  - A) The medical benefits reasonably expected from the provision of appropriate medical treatment at a more distant hospital or trauma center outweigh the increased risks to the patient from transport to the more distant hospital or trauma center; and
  - B) The more distant hospital or trauma center has available space and qualified personnel for the treatment of the patient. (Section 10(c) of the Act) An associate hospital, participating hospital, or trauma center affiliated with the EMS System may be presumed to have available space and qualified personnel in accordance with its level of participation within the System, unless such facility has notified the Project Medical Director that it has a shortage or limitation of space or qualified personnel.
- 2) The system's protocols may include an accommodation for the patient's choice of hospital other than the nearest hospital or trauma center if the transport to the more distant hospital or trauma center is not expected to increase the risk to the patient as determined and certified by the Project Medical Director or qualified designee. (Section 10(c) of the Act)
- 3) In order to certify a determination made pursuant to this subsection, this determination shall be recorded and signed by the Project Medical Director or qualified designee who made such determination at the base station or medical control point which had been contacted by the EMS vehicle personnel. If the person who made the determination is not physically present at such location, the medical control personnel present shall note that on the record, and the person who made the determination shall sign the record as soon thereafter as possible.
- 4) For purposes of this subsection, the "nearest hospital" is the hospital which is closest to the scene of the emergency as determined by travel time, and which operates a full-time emergency department at the minimum level recognized by the System in its Department approved Program Plan. The "nearest trauma center" is either the Level I Trauma Center serving the trauma region in which the EMS System is located, or the Level II Trauma Center which is closest to the scene of the emergency as determined by travel time.

(Source: Amended at 19 Ill. Reg. \_\_\_\_\_, effective \_\_\_\_\_)

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Section 535.216 Automatic Automated Defibrillation

- a) Any person licensed as an EMT-A, EMT-B, EMT-I or EMT-P and affiliated with an EMS system may use an automatic automated defibrillator if he or she has completed a course of instruction approved by the Department in automatic automated defibrillator operation. (Section 11.1 of the Act.)
- b) Automatic Automated Defibrillator Operation training is a mandatory component of the EMT-P training established by Section 535.500 of this Part. Separate course approval is therefore not necessary.
- c) In order to be approved by the Department, an EMT-A, EMT-B or EMT-I Automatic Automated Defibrillator Operation course shall include the following:
  - 1) A curriculum based on Section 9 of the United States Department of Transportation, Emergency Medical Technician-Intermediate; National Standard Curriculum;
  - 2) A requirement that EMT-A or EMT-B or EMT-I shall pass both a written and a practical examination as a condition of completing the course. The examinations shall be developed and evaluated by the Project Medical Director or designee and shall be designed to measure the EMT's knowledge and skills to safely and effectively operate an automatic automated defibrillator.
- d) A System may include the course in Automatic Automated Defibrillator Operation as part of an initial EMT-A, EMT-B or EMT-I license training program or may offer such training to persons already licensed as an EMT-A, EMT-B or EMT-I.

(Source: Amended at 19 Ill. Reg. \_\_\_\_\_, effective \_\_\_\_\_)

Section 535.217 Do Not Resuscitate (DNR) Policy

- a) A System shall develop a DNR policy for use by System personnel. The policy shall be implemented only after it has been reviewed and approved by the Department, in accordance with the requirements of this Section. For purposes of this Section, DNR refers to the withholding of cardiopulmonary resuscitation (CPR), electrical defibrillation, tracheal intubation and manually or mechanically assisted ventilations, unless otherwise stated on the DNR Order.
- b) The policy shall include, but not be limited to, specific procedures and protocols for cardiac arrest/DNR situations arising in long-term care facilities, with hospice and home-care patients, and with patients who arrest during interhospital transfers or transportation to or from home.
- c) The policy shall include specific procedures and protocols for withholding CPR in situations where explicit signs of biological death are present (e.g., decapitation, rigor mortis without profound hypothermia, profound dependent lividity, etc.), or the patient has

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- d) For situations not covered by subsection (c) of this Section, the policy shall require that resuscitative procedures must be followed unless a valid DNR Order is present.
- e) A valid DNR Order shall consist of a written document, which has not been revoked, containing at least the following information:
  - 1) Name of the patient,
  - 2) Name and signature of attending physician,
  - 3) Effective date,
  - 4) The words "Do Not Resuscitate",
  - 5) Evidence of consent - either:
    - A) signature of patient or
    - B) signature of legal guardian or
    - C) signature of durable power of attorney for health care agent or
    - D) signature of surrogate decision-maker or
    - E) attached living will or other advanced directive prepared by or on behalf of the patient.
- f) Revocation of a written DNR Order shall be made only in one or more of the following ways:
  - 1) The Order is physically destroyed or verbally rescinded by the physician who signed the order; or
  - 2) The Order is physically destroyed or verbally rescinded by the person who gave written informed consent to the Order.
- g) A System's DNR policy shall require System personnel to make a reasonable attempt to verify the identity of the patient (for example, identification by another person or an identifying bracelet) named in a valid DNR Order.
- h) The policy shall describe the roles of the on-line medical control physician and mobile intensive care nurse (MICN) in DNR situations.
- i) The policy shall state which System ambulance personnel are authorized to respond to a valid DNR Order (EMT-P, EMT-I, EMT-A, EMT-B, Field R.N.).
- j) The policy shall cross-reference the System's coroner notification policy.
- k) The policy shall describe the System's program for educating System personnel concerning the policy.
- l) The policy shall identify the quality assurance measures specific to this policy, including the methods and periods of review, and the submission of a yearly report to the Department indicating issues or problems which have been identified and the System's responses to those issues or problems.

(Source: Amended at 19 Ill. Reg. \_\_\_\_\_, effective \_\_\_\_\_)

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**Section 535.230 EMS System Personnel Standards**

a) The Project Medical Director shall be a physician licensed to practice medicine in all of its branches in Illinois and shall have completed a residency program in emergency medicine approved by the Residency Review Committee of the American Medical Association or have extensive critical or emergency care experience including documented competency in Advanced Life Support. In addition, the Project Medical Director shall:

- 1) Have experience on an EMS vehicle or make provision to gain such experience within ~~twelve~~ 12 months of the date responsibility for the System is assumed;
- 2) Be thoroughly knowledgeable of and able to demonstrate all skills excluding extrication as presented in the Emergency Medical Technician Field RN and MICN training programs, and
- 3) Have or make provisions to gain experience instructing students at a level similar to that of EMTs, Field RNs and MICNs.

b) The EMS System Coordinator shall:

- 1) Be a Registered Professional Nurse licensed in the State of Illinois or an EMT-P licensed in the State of Illinois,
- 2) Be trained and knowledgeable in dysrhythmia identification and treatment and have a diverse background in critical care, and
- 3) Have or make provision to obtain experience on an EMS vehicle within ~~twelve~~ 12 months of the date the responsibilities of the EMS System Coordinator were assumed.

c) In order to avoid any conflict of interest, the Project Medical Director, EMS System Coordinator and Project Director shall notify the Department in writing of any association with an ambulance service provider through employment or contract, specifying how he or she is answerable to or directed by such ambulance service provider concerning any matter falling within the scope of the Act or this Part. The Department shall review and address potential or actual conflicts of interest on an individual basis.

(Source: Amended at 19 Ill. Reg. \_\_\_\_\_, effective \_\_\_\_\_)

**Section 535.270 State EMS Disciplinary Review Board**

a) The State Emergency Medical Services Disciplinary Review Board shall be composed of five ~~45~~ members and five ~~45~~ alternate members appointed by the Governor. The 5 members of the Board shall be: a Project Medical Director from a Department-approved EMS System, a Hospital Administrator from a Department - approved EMS System, an EMS Coordinator from a Department - approved EMS System, a licensed Emergency Medical Technician - Paramedic (EMT-P) and a licensed Emergency Medical Technician - Ambulance (EMT-A) (EMT-B). (Section 10.1 of the Act):

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- b) There shall be one alternate for each member of the Board, from the same professional category as the member of the Board. (Section 10.1 of the Act):
- c) Of the members first appointed to the State EMS Disciplinary Review Board by the Governor, one member shall be appointed for a term of one year. 2 members shall be appointed for a term of 2 years and 2 members shall be appointed for a term of 3 years. The terms of subsequent appointees shall be 3 years. All appointees shall serve until their successors are appointed. The alternate members shall be appointed and serve in the same fashion as the members of the Board. If a member resigns his or her appointment, the corresponding alternate shall serve the remainder of that member's term until a subsequent member is appointed by the Governor. (Section 10.1 of the Act):
- d) The function of the State EMS Disciplinary Review Board is to review and affirm, reverse or modify orders to suspend an EMT or other individual provider from participating within an EMS System. (Section 10.2 (a) of the Act):
- e) An EMT or other provider who has been suspended by a Project Medical Director for reasons directly related to patient care may request the board to reverse or modify the suspension order. Such a request shall be made in writing by certified mail to the chief of the Department's Division of Emergency Medical Services and Highway Safety, Springfield, Illinois, within 10 days after receiving the Project Medical Director's suspension order. A copy of the PMD's written suspension order shall be enclosed. (Section 10.2(b) of the Act):
- f) A suspended EMT or other provider whose suspension was affirmed or modified by a local system review board may request the board to reverse or modify the local board's decision, and a Project Medical Director whose suspension order was reversed or modified by a local system board may request the board to reverse or modify the local board's decision. Such requests shall be made in writing by certified mail to the Chief of the Department's Division of Emergency Medical Services and Highway Safety, Springfield, Illinois, within 10 days after receiving the local Board's decision. A copy of the local Board's decision shall be enclosed. (Section 10.2 (c) of the Act):
- g) Upon receipt of a valid request for review, the Department shall notify the members of the Board as well as the alternates for Board members who are unavailable. A Quorum shall consist of 3 members or alternates and shall include the Project Medical Director Board member or alternate. The Board shall meet within 14 days after the Department receives the request for review, or as soon thereafter as the Project Medical Director Board member or alternate is available. The Board shall meet in Chicago or Springfield, whichever location is closer to the involved EMS System. (Section 10.2 (d) of the Act):
- h) At each meeting of the Board, the members or alternates present at the meeting shall select a chairperson to conduct the meeting. The Board shall review the transcripts, evidence and written decision of the



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- Local Review Board, or the written decision and supporting documentation of the PMD, whichever is applicable. The suspended participant and the Project Medical Director shall each have the opportunity to present a written statement specifying why the Local Review Board's decision or the PMD's suspension order should be affirmed, reversed, or modified. The Board shall allow such testimony and new evidence as it deems necessary to determine whether the Local Board's decision or the PMD's suspension order was supported by the weight of the evidence. The Project Medical Director shall provide the Board with the transcript, evidence and written decision of the Local Review Board, or the supporting documentation on which his or her suspension order was based, whichever is applicable. The Project Medical Director shall arrange for a certified shorthand reporter to make a stenographic record of the Board's meeting and thereafter prepare a transcript of the proceedings. (Section 10.2 e) of the Act);
- i) At the conclusion of any testimony or presentation of new evidence, the Board shall meet in a closed session to reach a decision. The Board may continue its meeting to another date for further deliberation; however, the Board shall render a decision not more than 28 days after the first meeting date. On a form provided by the Department, the chairperson of the meeting shall state the Board's decision to affirm, reverse or modify the decision of the Local Review Board or the PMD's suspension order, whichever is applicable, and state the basis for the Board's decision. The chairperson shall within five working days submit the Board's written decision, together with the transcripts, evidence and other materials from the meeting, to the Department. The Department shall within five working days issue a copy of the Board's decision to all affected parties. (Section 10.2 (f) of the Act);
- j) The system shall implement a decision of the State EMS disciplinary review board which has been rendered in accordance with the Act and ~~this Part~~ this Part. (Section 13(g) of the Act)

(Source: Amended at 19 Ill. Reg. \_\_\_\_\_, effective \_\_\_\_\_)

SUBPART E: EMERGENCY MEDICAL TECHNICIAN - AMBULANCE-(EMT-A)  
BASIC (EMT-B)

Section 535.300 Emergency Medical Technician - Ambulance Basic Training - General

- a) Applications for approval of EMT-A EMT-B Training Programs shall be filed with the Department on forms prescribed, prepared and furnished by the Department. The application shall contain such information as, but not limited to, name of applicant, agency and address, type of training program, lead instructor's name and address, dates of the training program, name and signature of medical director.

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- b) Applications for approval shall be submitted at least ~~sixty~~-60 days in advance of the first scheduled class.
- c) The ~~EMT-A~~ EMT-B training program shall designate a physician, as Medical Director who is knowledgeable in emergency care. The Medical Director shall attest that the training program shall be conducted according to the United States Department of Transportation's National Standard Curriculum, and that all instructors are knowledgeable in the material and capable of instructing at the ~~EMT-A~~ EMT-B level.
- d) The ~~EMT-A~~ EMT-B training program shall designate a Lead Instructor who shall be responsible for the overall management of the training program.
- e) The Lead Instructor shall be an ~~EMT-A~~ EMT-B, EMT-I, EMT-P, an Illinois Registered Nurse, or a physician licensed to practice medicine in all of its branches in Illinois.
- f) The Lead Instructor shall have three ~~two~~ years of experience in emergency care as a provider and two ~~two~~ years of teaching experience in a classroom setting.
- g) The Lead Instructor shall be recommended by the Medical Director and approved by the Department based on the requirements of Section 535.300 (e) and (f).
- h) Any changes in the ~~EMT-A~~ EMT-B training program's Medical Director or Lead Instructor shall require the application process outlined in Section 535.300(a).
- i) Questions for all quizzes and tests to be given during the ~~EMT-A~~ EMT-B training program will be prepared by the Department and provided to the Lead Instructor upon request, or the Lead Instructor may choose to prepare his/her own quizzes and tests.
- j) Each approved training program shall submit a student roster within ~~ten--~~ 10 days after the first class as well as a student roster indicating successful or unsuccessful completion within ~~ten--~~ 10 days after the last class.
- k) All approved programs shall maintain class and student records for seven ~~two~~ years and these shall be made available to the Department upon request.

(Source: Amended at 19 Ill. Reg. \_\_\_\_\_, effective \_\_\_\_\_)

Section 535.310 ~~EMT-A~~ EMT-B Testing

- a) After completion of an approved training program, ~~EMT-A~~ EMT-B candidates shall take a written examination. The candidate shall have the choice of taking either the National Registry of Emergency Medical Technicians examination or the Department's examination. The Department's examination is based on the United States Department of Transportation National Standard Curriculum and is equivalent to the National Registry Examination.
- b) The Department or designee shall administer the National Registry

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examination or the State written examination for EMT-A EMT-B licensure at least once each quarter and at a location in each administrative region in the State.

- c) All EMT-A EMT-B candidates shall hold a high school diploma or high school equivalency certificate and be eighteen ~~18~~ years of age or older in order to be tested for licensure.
- d) A failure rate per class of 25 percent or greater on the licensure examination shall require that the particular EMT-A EMT-B training program be reevaluated by the Department at least sixty ~~60~~ days before the start of the next class.
- e) Failure to achieve a passing grade on three successive examinations within 12 months of the completion of the Training Program shall require the candidate to retake the EMT-A EMT-B training program.
- f) When a candidate elects to take the State examination or the National Registry's examination, the candidate must successfully complete that particular testing procedure. A candidate will not be allowed to take the alternate examination after failure to achieve a passing grade.

(Source: Amended at 19 Ill. Reg. \_\_\_\_\_, effective \_\_\_\_\_)

## Section 535.315 Fee For Testing

- a) Each EMT-A EMT-B candidate making application for the Department's written examination for licensure is required to submit a fee of ten Dollars ~~\$10.00~~. This fee is to be paid by certified check or money order. Cash will not be accepted.
- b) Failure to appear for the examination on the scheduled date, at the time and place specified, shall result in the forfeiture of the examination fee.
- c) If an EMT-A EMT-B candidate does not achieve a passing grade on the written examination, the fee for the retest is the same as for initial examination.
- d) All fees submitted for licensure examinations are not refundable.

(Source: Amended at 19 Ill. Reg. \_\_\_\_\_, effective \_\_\_\_\_)

Section 535.320 EMT-A EMT-B Licensure

- a) In order to be licensed by the Department as an EMT-A EMT-B an individual must pass the National Registry of Emergency Medical Technicians Examination or the Department's EMT-A EMT-B examination.
- b) The Department will license those individuals who meet the requirements of this Section for a period of two ~~(2)~~ four years.
- c) A licensed EMT-A EMT-B shall perform only those life support services covered by the EMT-A EMT-B training and testing required by this Part. Only EMT-As EMT-Bs who have been approved by their EMS System Project

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Medical Director to operate an automate ~~automatic~~ defibrillator, pursuant to Section 535.216 of this Part, shall be allowed to do so.

(Source: Amended at 19 Ill. Reg. \_\_\_\_\_, effective \_\_\_\_\_)

Section 535.330 EMT-A EMT-B Relicensure

- a) In order to be relicensed as an EMT-A EMT-B:
  - 1) The EMT-A EMT-B licensee must file with the Department an application for renewal on a form provided by the Department at least thirty (30) days prior to the two ~~(2)~~ four year license expiration date. The application shall be filed with the Department's Regional EMS Coordinator for the Region in which the EMT-A EMT-B resides.
  - 2) Written documentation must be provided to the Regional EMS Coordinator by the Project Medical Director or the EMT-A EMT-B regarding completion of the following requirements:
    - A) Successful completion of a ~~20~~ twenty ~~(20)~~ hour refresher training program, to be successfully completed during the last two years of the relicensure period.
    - B) One hundred additional hours of continuing education, seminars and workshops with 60 hours completed during the first two years and 40 hours completed during the last two years of the relicensure period.
    - C) Any System continuing education requirements for EMT-Bs approved to operate an automated defibrillator shall be included in the 100 required continuing education hours.

- B) D) A current CPR certificate, which covers:
  - i) Adult one-rescuer CPR
  - ii) Adult foreign body airway obstruction management
  - iii) Pediatric one-rescuer CPR
  - iv) Pediatric foreign body airway obstruction management
  - v) Adult two-rescuer CPR
  - vi) Pediatric two-rescuer CPR.

- E) Forty ~~(40)~~ hours of continuing education, seminars and workshops plus any system continuing education requirements for EMT-As approved to operate an automated defibrillator. No more than twenty-five percent (25%) of those hours may be in the same subject.

- b) Composition of refresher training programs and qualifications of instructors shall be approved by the Department not less than sixty ~~60~~ days prior to the scheduled event. Program approval will be granted provided the program is conducted in accordance with guidelines of the Federal Department of Transportation's current national curriculum and based upon the program content relevancy for EMT-As EMT-Bs. Qualifications of instructors shall be consistent with Section 535.300(e) and (f).

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- a) An EMT-I training program shall only be conducted by an EMS System.
- b) Applications for approval of EMT-I Training Programs shall be filed with the Department on forms prescribed, prepared and furnished by the Department. The application shall contain such information as, but not limited to, name of applicant, agency and address, type of training program, lead instructor's name and address, dates of training program, name and signature of the Project Medical Director and EMS System Coordinator.
- c) Applications for approval shall be submitted at least ~~sixty~~ 60 days in advance of the first scheduled class.
- d) The Project Medical Director of the EMS System shall attest on the Department's application form that the training program shall be conducted according to the United States Department of Transportation's National Standard Curriculum. Minimum sections shall include #1 through #8.
- e) The EMT-I training program shall be under the direction of the Project Medical Director and the EMS System Coordinator.
- f) The EMS system shall designate a Lead Instructor, who shall be approved by the Department based on the requirements of Section 535.400(g).
- g) The Lead Instructor shall be an EMT-I, EMT-P, a Registered Nurse or a physician and shall have three (3) years of experience in emergency care as a provider and two (2) years of teaching experience in a classroom setting.
- h) Any changes in the EMT-I training program's Project Medical Director, EMS System Coordinator and/or Lead Instructor shall require the application process as outlined in subsection (b) of this Section.
- i) A candidate for an EMT-I training program must have a current Illinois EMT-A EMT-B license.
- j) Before a candidate is accepted into the program, documentation must be submitted that an EMS System vehicle will be available to accommodate field experience and internship needs.
- k) Each approved training program shall submit a student roster within ten (10) days after the first class.
- l) After an EMT-I candidate has completed and passed all components of the training program, the PWD shall submit to the Department a transaction card (Form No. ~~BP-011-05~~ IL 482-0937) concerning that individual.
- m) All approved programs shall maintain class and student records for seven (7) years and these shall be made available to the Department upon request.

(Source: Amended at 19 Ill. Reg. \_\_\_\_\_, effective \_\_\_\_\_)

Section 535.420 EMT-I Licensure

- a) In order to be licensed by the Department as an EMT-I, an individual

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- c) The license of an EMT-A EMT-B who has failed to file an application for renewal, or whose application for renewal has been denied by the Department, shall terminate on the day following the expiration date shown on the license.

(Source: Amended at 19 Ill. Reg. \_\_\_\_\_, effective \_\_\_\_\_)

Section 535.335 EMT-A EMT-B Continuing Education

- a) Continuing education classes, seminars, workshops or other types of programs shall be approved by the Department before being offered to EMT-As EMT-Bs. An application for approval shall be submitted to the Department on a form prescribed, prepared and furnished by the Department, at least ~~sixty~~ 60 days prior to the scheduled event.
- b) Approval will be granted provided the application is complete and the content of the program is based on topics or materials from the United States Department of Transportation National Standard Curriculum for EMT-As EMT-Bs. Upon approval, the Department will issue a site code to the class, seminar, workshop or program.
- c) An EMT-A EMT-B shall be responsible for submitting written proof of continuing education attendance to the EMS System Coordinator or the Department Regional EMS Coordinator.
- d) The EMS System Coordinator or Department Regional EMS Coordinator shall be solely responsible for verifying whether specific continuing education hours have been earned by the EMT-A EMT-B.
- e) An EMT-A EMT-B shall be responsible for maintaining copies of all documentation concerning continuing education programs that he or she has completed.

(Source: Amended at 19 Ill. Reg. \_\_\_\_\_, effective \_\_\_\_\_)

Section 535.340 Failure to Renew - Denial of Relicensure

Every EMT-A EMT-B licensee who either fails to apply for renewal prior to the expiration of the license, whose application for renewal is denied by the Department, or whose license has been revoked by the Department shall be required to retake the training program and tests and pay the fees as required for initial licensure, in order to be relicensed.

(Source: Amended at 19 Ill. Reg. \_\_\_\_\_, effective \_\_\_\_\_)

SUBPART F: EMERGENCY MEDICAL TECHNICIAN - INTERMEDIATE  
(EMT-I)

Section 535.400 Emergency Medical Technician - Intermediate Training - General



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## must:

- 1) pass either the National Registry of Emergency Medical Technicians examination or the Department's EMT-I examination.
- 2) Complete a field internship on a State-approved EMS System vehicle, supervised by an EMT-I or EMT-P with one year of experience, a Registered Professional Nurse designated by the Project Medical Director, or a physician with critical care knowledge and experience on an EMS vehicle.

A) The length and structure of the field internship shall be determined by the PMD for the System in which the internship is performed, based upon the types and frequencies of emergency calls encountered by EMT-Is within that System, but shall include a minimum of five (5) Intermediate Life Support runs.

B) The field internship shall be completed within six (6) months after passing the EMT-I examination. If an extension of time is needed due to hardship, a waiver shall be sought pursuant to Section 535.750 of this Part, prior to the end of the six-month period.

C) An EMT-I candidate who completes the internship after the six-month period, pursuant to waiver, shall be given a practical examination by the PMD. Such examination shall cover patient assessment and appliance application at the EMT-I level.

D) The PMD shall notify the Department, in writing, when an EMT-I candidate has completed the field internship and passed a practical examination, if applicable.

- 3) Be functioning within a State-approved EMS System providing intermediate life support services, as verified by that System's Project Medical Director.

b) The Department will license those individuals who meet the requirements of this Section for a period of ~~two~~(2) four years.

c) A licensed EMT-I shall perform only those life support services covered by the EMT-I training and testing required by this Part. Only EMT-Is who have been approved by their EMS System Project Medical Director to operate an ~~automatic~~ automated defibrillator, pursuant to Section 535.216 of this Part, will be allowed to do so.

(Source: Amended at 19 Ill. Reg. \_\_\_\_\_, effective \_\_\_\_\_)

## Section 535.430 EMT-I Relicensure

a) In order to be relicensed as an EMT-I:

- 1) The EMT-I licensee must file with the Department an application for renewal on a form prepared by the Department at least ~~thirty~~ (30) days prior to the ~~two~~(2) four year license expiration date.

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A) The submission of a transaction card (Form No. ~~EPH-BP---~~01 ~~1-85~~ IL 482-0837) by the Project Medical Director will satisfy the renewal application requirement for a licensee who has been recommended for relicensure by the Project Medical Director.

B) A licensee who has not been recommended for relicensure by the Project Medical Director must independently submit to the Department an application for renewal. The Project Medical Director shall provide the licensee with a copy of the appropriate form to be completed.

2) A written recommendation signed by the Project Medical Director must be provided to the Department regarding completion of the following requirements:

A) ~~Successfully completing a~~ A twenty 20-hour (20) refresher training program, to be successfully completed during the last two years of the relicensure period.

B) ~~One hundred additional hours of continuing education, seminars and workshops, with 60 hours completed during the first two years and 40 hours completed during the last two years of the relicensure period, no more than 25 percent to be in any single area, i.e., extrication, cardiac, etc.~~

C) ~~Any System continuing education requirements for EMT-Is approved to operate an automated defibrillator shall be included in the required 100 continuing education hours.~~

~~Forty-eight (48) hours of continuing education--seminars and workshops--twelve (12) hours of which were directed--at--the intermediate--skills--plus--any System--continuing education requirements--for--EMG--is--approved--to--operate--an--automated defibrillator--~~

B7D) A current CPR certificate which covers:

- i) Adult one-rescuer CPR
- ii) Adult foreign body airway obstruction management
- iii) Pediatric one-rescuer CPR
- iv) Pediatric foreign body airway obstruction management
- v) Adult two-rescuer CPR
- vi) Pediatric two-rescuer CPR.

B7E) Functioning within a State-approved EMS System providing intermediate life support services as verified by that System's Project Medical Director.

b) Composition of refresher training programs and qualifications of instructors and continuing education programs shall be submitted to the Department for approval not less than ~~sixty~~(60) days prior to the scheduled event. Program approval will be granted provided the program is conducted in accordance with guidelines of the Federal Department of Transportation's ~~current~~ national curriculum and contains material relevant to EMT-Is. Qualifications of instructors shall be consistent with Section 535.400(f).

c) Upon denial of recommendation for relicensure, the Project Medical

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Director shall submit all reasons for denial. This denial shall be in writing and sent to the EMT-I and the Department.

- d) The licensure of an EMT-I who has failed to file an application for renewal, or whose application for renewal has been denied by the Department, shall terminate on the day following the expiration date shown on the license.

- e) At any time prior to the expiration of the current license, the EMT-I may revert to the **EMT-A** EMT-B status for the remainder of the license period. The EMT-I must make this request in writing to the Department. To licensure at the **EMT-A** EMT-B level, the individual must meet the requirements for licensure found in Section 535.330.

- f) An EMT-I who has reverted to **EMT-A** EMT-B status may be subsequently relicensed as an EMT-I, upon the recommendation of a Project Medical Director who has verified that the individual's knowledge and clinical skills are at an active EMT-I level, and the individual has completed any retraining, education or testing deemed necessary by the PMD for resuming EMT-I activities.

- g) An EMT-I license that expired while the licensee was temporarily disabled or was suspended based on a temporary disability shall be reinstated when the disability ceases, upon application and payment of any applicable fee and verification by the Project Medical Director that the licensee is capable of functioning at the EMT-I level, based upon the PMD's assessment of the licensee's knowledge and clinical skills, and the licensee's completion of any refresher training deemed necessary by the PMD and approved by the Department. (Section 10(q) of the Act, see P.A. 88-564)

(Source: Amended at 19 Ill. Reg. \_\_\_\_\_, effective \_\_\_\_\_)

## Section 535.440 EMT-I Inactive Status

- a) Prior to the expiration end of the **two-year** current license period, an EMT-I may request to be placed on inactive status. The request shall be made in writing to the Project Medical Director. The Project Medical Director will apply to the Department in writing and request that the EMT-I be placed on inactive status. This application shall contain the following information:

- 1) Name of individual.
- 2) Date of licensure.
- 3) EMT identification number.
- 4) Circumstances requiring inactive status.
- 5) Length of time of inactive status.
- 6) A statement that licensure requirements have been met by the date of the application for inactive status.

- b) The Department will review requests for inactive status. The Department shall notify the Project Medical Director in writing of its decision based on **Section 535.440(a)** subsection (a) of this Section.

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- c) In order for the EMT-I to return to active status, the Project Medical Director must make application to the Department. The application must be in writing and include a statement that the EMT has been examined (physically and mentally) and found capable of functioning within the EMS System, and that the EMT-I's knowledge and clinical skills are at an active EMT-I level, and that the EMT-I has completed any refresher training deemed necessary by the PMD and approved by the Department. If the inactive status was based on a temporary disability, the PMD shall also verify that the disability has ceased.
- d) During inactive status, the EMT-I shall not function as an EMT, at any level.

(Source: Amended at 19 Ill. Reg. \_\_\_\_\_, effective \_\_\_\_\_)

SUBPART G: EMERGENCY MEDICAL TECHNICIAN - PARAMEDIC  
(EMT-P)

## Section 535.500 Emergency Medical Technician-Paramedic Training - General

- a) An EMT-P training program shall only be conducted by an EMS System.
- b) Applications for approval of EMT-P training programs shall be filed with the Department on forms prescribed, prepared and furnished by the Department. The application shall contain such information as, but not limited to, name of applicant, agency and address, type of training program, Project Medical Director's and EMS System Coordinator's name, dates of training program, signature of Project Medical Director and EMS System Coordinator.
- c) Applications for approval shall be submitted at least **sixty**-~~60~~ days in advance of the first scheduled class.
- d) The Project Medical Director of the EMS System shall attest that the training program shall be conducted according to the United States Department of Transportation's National Standard Curriculum. The EMT-P training program shall include all components of the National Standard Curriculum.
- e) The EMT-P training program's lead coordinators shall be the Project Medical Director and the EMS System Coordinator.
- f) Any change in the EMT-P training program's Project Medical Director and/or EMS System Coordinator shall require the application process as outlined in subsection (b) of this Section.
- g) A candidate for an EMT-P training program must have a current Illinois **EMT-A** EMT-B or EMT-I license.
- h) Before a candidate is accepted into the program, documentation must be submitted that an EMS System vehicle will be available to accommodate field experience and internship needs.
- i) Each approved training program shall submit a student roster within **ten**-~~10~~ days after the first class.
- j) After an EMT-P candidate has completed and passed all components of

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the training program, the PMD shall submit to the Department a transaction card (Form No. ~~EPH-BP-017--1-85~~ IL 482-0837) concerning that individual.

- k) All approved programs shall maintain class and student records for seven ~~77~~ years and these shall be made available to the Department upon request.

(Source: Amended at 19 Ill. Reg. \_\_\_\_\_, effective \_\_\_\_\_)

## Section 535.520 EMT-P Licensure

- a) In order to be licensed by the Department as an EMT-P an individual must:

- 1) Pass either the National Registry of Emergency Medical Technicians examination or the Department's EMT-P examination, and
- 2) Complete a field internship on a State-approved EMS System vehicle, supervised by an EMT-P with one year of experience, a Registered Professional Nurse designated by the Project Medical Director, or a physician with critical care knowledge and experience on an EMS vehicle.

- A) The length and structure of the field internship shall be determined by the PMD for the System in which the internship is performed, based on the types and frequencies of emergency calls encountered by EMT-Ps within that System, but shall include a minimum of ~~ten--4~~ 10 Advanced Life Support runs.

- B) The field internship shall be completed within ~~twelve--4~~ 12 months after passing the EMT-P examination. If an extension of time is needed due to hardship, a waiver shall be sought pursuant to Section 535.750 of this Part, prior to the end of the ~~twelve~~ 12-month period.

- C) An EMT-P candidate who completes the internship after the ~~twelve~~ 12-month period, pursuant to waiver, shall be given a practical examination by the PMD. Such examination shall cover patient assessment and appliance application at the EMT-P level.

- D) The PMD shall notify the Department, in writing, when an EMT-P candidate has completed the field internship and passed a practical examination, if applicable.

- 3) Be functioning within a State-approved EMS System providing advanced life support services, as verified by that System's Project Medical Director.

- b) The Department will license those individuals who meet the requirements of this Section for a period of ~~two--427~~ four years.

(Source: Amended at 19 Ill. Reg. \_\_\_\_\_, effective \_\_\_\_\_)

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## NOTICE OF PROPOSED AMENDMENTS

## Section 535.530 EMT-P Relicensure

- a) In order to be relicensed as an EMT-P:

- 1) The EMT-P licensee must file with the Department an application for renewal on a form prepared by the Department at least ~~thirty~~ 30 days prior to the ~~two--427~~ four year ~~certification~~ license expiration date.

- A) The submission of a transaction card (Form No. ~~EPH-BP--031~~ 4-85 IL 482-0837) by the Project Medical Director will satisfy the renewal application requirement for a licensee who has been recommended for relicensure by the Project Medical Director.

- B) A licensee who has not been recommended for relicensure by the Project Medical Director must independently submit to the Department an application for renewal. The Project Medical Director shall provide the licensee with a copy of the appropriate form to be completed.

- 2) A written recommendation signed by the Project Medical Director must be provided to the Department regarding completion of the following requirements:

- A) ~~A minimum of forty--4407--hours--of--continuing--education--in each--of--the--last--two--427--years--earned--in--accordance--with the System's policies. Eighty hours of continuing education, seminars and workshops during each two-year portion of the relicensure period, not more than 25 percent to be in any single area, i.e., extrication, cardiac, etc.~~

- B) A current CPR certificate, which covers:

- i) Adult one-rescuer CPR
- ii) Adult foreign body airway obstruction management
- iii) Pediatric one-rescuer CPR
- iv) Pediatric foreign body airway obstruction management
- v) Adult two-rescuer CPR
- vi) Pediatric two-rescuer CPR.

- C) Functioning within a State-approved EMS System providing advanced life support services as verified by that System's Project Medical Director.

- b) Upon denial of recommendation for relicensure, the Project Medical Director must submit all reasons for denial. This denial shall be in writing and sent to the EMT-P and the Department.

- c) The license of an EMT-P who has failed to file an application for renewal, or whose application for renewal has been denied by the Department, shall terminate on the day following the expiration date shown on the license.

- d) At any time prior to the expiration date of the current license, the EMT-P may revert to either the EMT-I or EMT-A ~~EMT-B~~ status for the remainder of the license period. The EMT-P must make this request in



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writing to the Department and in the case of reduction to the EMT-I level, the request must include a letter of recommendation from the Project Medical Director. To relicense at the EMT-A level, the individual must meet the requirements for relicensure found in Section 535.330. To relicense at the EMT-I level, the individual must meet the requirements for relicensure found in Section 535.430.

- e) An EMT-P who has reverted to EMT-I or EMT-A status may be subsequently relicensed as an EMT-P, upon the recommendation of a Project Medical Director who has verified that the individual's knowledge and clinical skills are at an active EMT-P level, and the individual has completed any retraining, education or testing deemed necessary by the PMD for resuming EMT-P activities.

f) An EMT-P license that expired while the licensee was temporarily disabled or was suspended based on a temporary disability shall be reinstated when the disability ceases upon application and payment of any applicable fee and verification by the project medical director that the licensee is capable of functioning at the EMT-P level--based upon the PMD's assessment--of the licensee's knowledge and clinical skills and the licensee's completion of any refresher training--deemed necessary by the PMD and approved by the Department. (Section 10(g) of the Act, see P.A. 88-564)

(Source: Amended at 19 Ill. Reg. \_\_\_\_\_, effective \_\_\_\_\_)

## Section 535.540 EMT-P Inactive Status

- a) Prior to the expiration end of the two-year current license period, an EMT-P may request to be placed on inactive status. The request shall be made in writing to the Project Medical Director. The Project Medical Director will apply to the Department in writing and request that the EMT-P be placed on inactive status. This application shall contain the following information:

- 1) Name of individual.
  - 2) Date of licensure.
  - 3) EMT identification number.
  - 4) Circumstances requiring inactive status.
  - 5) Length of time of inactive status.
  - 6) A statement that relicensure requirements have been met by the date of the application for inactive status.
- b) The Department will review requests for inactive status. The Department shall notify the Project Medical Director in writing of its decision based on subsection (a) of this Section.
- c) In order for the EMT-P to return to active status, the Project Medical Director must make application to the Department. The application must be in writing and include a statement that the EMT has been examined (physically and mentally) and found capable of functioning within the EMS System, and that the EMT-P's knowledge and clinical

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skills are at an active EMT-P level, and that the EMT-P has completed any refresher training deemed necessary by the PMD and approved by the Department. If the inactive status was based on a temporary disability, the PMD shall also verify that the disability has ceased. During inactive status, the EMT-P shall not function as an EMT, at any level.

d) (Source: Amended at 19 Ill. Reg. \_\_\_\_\_, effective \_\_\_\_\_)

## SUBPART 1: SUSPENSION, REVOCATION AND DENIAL OF LICENSURE OF EMTs

## Section 535.650 Suspension, Revocation and Denial of Licensure of EMTs

- a) The Director, after providing notice and an opportunity for an administrative hearing to the applicant or licensee, shall deny, suspend or revoke a license or refuse to relicense any person as an EMT-A, EMT-B, EMT-I or EMT-P in any case in which he or she finds that there has been a substantial failure to comply with the provision of the Emergency Medical Services (EMS) Systems Act or this Part. Such findings must show one or more of the following:

- 1) The EMT-A [EMT-B], EMT-I or EMT-P has not met continuing and additional education and training requirements as prescribed by the Department ~~in--this Part~~ in this Part. (Section 10(b)(1) of the Act);
- 2) The EMT-A [EMT-B], EMT-I or EMT-P has violated ~~this~~ the Act or any rule promulgated under ~~this~~ the Act. (Section 10(b)(2) of the Act);
- 3) The EMT-A [EMT-B], EMT-I or EMT-P has failed to maintain proficiency in providing basic or intermediate life support services, or advanced life support-mobile intensive care services or required skills as prescribed by the Department. (Section 10(b)(3) of the Act);
- 4) The EMT-A [EMT-B], EMT-I, or EMT-P, during the provision of emergency services, engaged in dishonorable, unethical or unprofessional conduct of a character likely to deceive, defraud or harm the public (e.g., use of alcohol or illegal drugs while on duty, verbal or physical abuse of a patient, or misrepresentation of licensure status); (Section 10(b)(4) of the Act);
- 5) The EMT-A [EMT-B], EMT-I or EMT-P is physically impaired to the extent that he or she cannot physically perform the emergency care and life support functions for which he or she is licensed, as verified by a physician, unless the person is an EMT-I or EMT-P on inactive status pursuant to Department regulations (Section 10(b)(5) of the Act); or
- 6) The EMT-A [EMT-B], EMT-I or EMT-P is mentally impaired to the

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extent that he or she cannot exercise the appropriate judgment, skill and safety for performing the emergency care and life support functions for which he or she is licensed, as verified by a physician, unless the person is an EMT-I or EMT-P on inactive status pursuant to Department regulations. (Section 10(b)(6) of the Act)

- b) "Substantial Failure", as used in this Section, means a failure other than a variance from the strict and literal requirements, which results in important omissions, given the particular circumstances involved.
- c) "Revocation", as used in this Section, means that the Department-issued license is terminated.
- d) "Suspension", as used in this Section, means that the Department-issued license is invalid for an identified period of time determined necessary to correct substantial failure.
- e) The Director shall suspend a license in any case in which he or she finds that the substantial failure by the licensee can be corrected or remedied within an identified period of time determined necessary to correct the substantial failure prior to the expiration of the license. If the substantial failure cannot be corrected or remedied within an identified period of time prior to the expiration of the license, then the Director shall revoke the license.

(Source: Amended at 19 Ill. Reg. \_\_\_\_\_, effective \_\_\_\_\_)

**Section 535.810 Field RN Training**

- a) Applications for approval of Field RN Training programs shall be filed with the Department on forms prescribed, prepared and furnished by the Department and similar to those prescribed for EMT-P training programs.
- b) Applications for approval shall be submitted at least thirty--( 30) days in advance of the first scheduled class.
- c) The Project Medical Director of the EMS System shall attest that the training program shall include:

- 1) A course in extrication training which is based upon the United States Department of Transportation, National Standard Curriculum for EMT-Ambulance Basic,
- 2) A course which is based upon the United States Department of Transportation, National Standard Curriculum for EMT-Paramedic, Division 1, Pre-Hospital Environment, Sections 1 through 7,
- 3) The American Heart Association Advanced Cardiac Life Support (ACLS) course or a course in dysrhythmia identification, therapeutic modalities, pharmacokinetics, intubation, defibrillation and management of cardiac resuscitation which is based upon the ACLS course,
- 4) A pre-hospital trauma course, which shall be either trauma nurse

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specialist or nurse trauma life support or their equivalents as approved by the Project Medical Director (Section 4.21 of the Act), and

- 5) Completion of the necessary field experience required by the program as approved by the Department on a State-approved EMS System vehicle supervised by a licensed EMT-P with a minimum of one year's experience, a Field RN with a minimum of one year's field experience, or a physician with critical care knowledge and experience on an EMS vehicle.

(Source: Amended at 19 Ill. Reg. \_\_\_\_\_, effective \_\_\_\_\_)

## SUBPART N: ADMINISTRATIVE WARNINGS AND FINES

**Section 535.1000 Administrative Warnings and Fines**

- a) The Director shall investigate complaints that a facility, pre-hospital care provider or system participant has violated any provision of the Act or any protocol, standard or rule adopted pursuant thereto. (Section 25(c) of the Act).
- b) If the Director finds that such a violation has occurred, he or she may issue to the facility, pre-hospital care provider or system participant a Notice of Administrative Warning. Such notice shall include:

- 1) A description of the violation;
  - 2) A citation to the Section of the Act, rule, protocol or standard alleged to have been violated;
  - 3) A description of any corrective action which the facility, pre-hospital care provider or System participant may take in order to abate the Notice of Administrative Warning, if any; and
  - 4) The opportunity to request an administrative hearing prior to implementation of the administrative warning, provided such request for a hearing is made within 15 days after mailing or service of the notice. (Sections 25 (c), (d) of the Act).
- c) In addition, the Director may issue a Notice of Fine, under the following conditions:
- 1) If the Director determines that the violation creates or created a condition or occurrence presenting a substantial probability that death or serious physical harm to an individual will result therefrom, the Director may impose a fine not exceeding \$10,000.
  - 2) If the Director determines that the violation creates or created a condition or occurrence which threatens the health, safety or welfare of an individual, the Director may impose a fine not exceeding \$5,000. (Section 25(c) of the Act).
  - 3) In determining the amount of a fine, the Director shall also consider the following factors:
    - A) The severity of the actual or potential harm to an

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individual.

- B) The numbers and types of protocols, standards, rules or Sections of the Act which were violated in the course of creating the condition or occurrence at issue.
- C) The reasonable diligence exercised by the facility, pre-hospital care provider or System participant to avoid the violation(s) or to reduce the potential harm to individuals.
- D) Efforts by the facility, pre-hospital care provider or System participant to correct the violation(s).
- E) Any previous violation(s) of a like or similar nature by the facility, pre-hospital care provider or System participant.
- F) Any financial benefit to the facility, pre-hospital care provider or System participant of continuing the violation(s).

4) The Notice of Fine shall include:

- A) A description of the violation(s) for which the fine is being imposed.
  - B) A citation to the Sections of the Act, rules, protocols or standards alleged to have been violated.
  - C) The amount of the fine.
  - D) The opportunity to request an administrative hearing prior to imposition of the fine, provided such request for a hearing is made within 15 days after mailing or service of the notice. (Section 25(c), (d) of the Act)-
- 5) All fines shall be paid to the Department within the following time periods:

- A) If the fine is not contested, no later than 10 days after the Notice of Fine.
- B) If the fine is contested under Section 25(d) of the Act, no later than 10 days after receipt of the Director's Final Order, unless the facility, pre-hospital care provider or System participant appeals the Director's Final Order pursuant to the provisions of the Administrative Review Law and the reviewing court issues an order staying the Director's Final Order.

d) For purposes of this Section.

- 1) "Facility" means a trauma center, resource hospital, associate hospital, participating hospital, or another hospital.
- 2) "Pre-Hospital Care Provider" means an ambulance service provider or specialized emergency medical service vehicle which is not owned, operated, licensed or regulated by any unit of local government, or an Emergency Medical Technician-Ambulance Basic (EMT-A EMT-B) who is not affiliated with an EMS System.
- 3) "System Participant" means an EMS System Coordinator, Associate Hospital EMS Medical Director, Associate Hospital EMS Coordinator, or Field RN, MICN or physician serving on an ambulance or giving voice orders to field personnel. (Section

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25(c) of the Act-)

(Source: Amended at 19 Ill. Reg. \_\_\_\_\_, effective \_\_\_\_\_)



## DEPARTMENT OF PUBLIC HEALTH/HEALTH FACILITIES PLANNING BOARD

## NOTICE OF PROPOSED AMENDMENTS

1) Heading of the Part:

Narrative and Planning Policies

2) Code Citation:

77 Ill. Adm. Code 1100

3) Section Numbers:

1100.740

Proposed Action:

Amendment

4) Statutory Authority:

Illinois Health Facilities Planning Act  
(Ill. Rev. Stat. 1991, ch. 111 1/2, par. 1151 et seq.)  
[20 ILCS 3960]

5) A Complete Description of the Subjects and Issues Involved:

These rules establish the planning areas, occupancy target and need projection models to be utilized in the selection of sites for sub-acute care facilities. The focus of the changes addressed here are the specific definition of what constitutes a rural area. Adopted rules established a definition of "municipality" as a geographic area designated as Metropolitan Statistical Area (MSA) by the Bureau of the Census. Under this definition rural areas consisted of all areas outside Cook, DuPage, Kane, Lake, McHenry and Will counties and any other county in the municipality definition. Under the census definition many rural counties are included in the MSA's due to their physical proximity to urban areas. Under the competitive review established for sub-acute care projects this places rural hospitals located in these proximity counties in competition with the urban hospitals located within the MSA's. Under the conditions for evaluation this provides the urban facility a distinct advantage in obtaining one of the permits while in rural areas restricts the number of potential applicants severely. This rulemaking is identical to an emergency rulemaking published in this issue of the Illinois Register and effective January 31, 1995.

6) Will this Rulemaking Replace an Emergency Rule Currently in Effect? Yes7) Does this Rulemaking Contain an Automatic Repeal Date? No8) Does this Rulemaking Contain any Incorporations by Reference? No9) Are there any Other Proposed Amendments pending on this Part? Yes

If Yes:

## DEPARTMENT OF PUBLIC HEALTH/HEALTH FACILITIES PLANNING BOARD

## NOTICE OF PROPOSED AMENDMENTS

## Section Numbers Proposed Action: Ill. Reg. Citation:

1100.750 Amendment 18 Ill. Reg. 9357

10) Statement of Statewide Policy Objectives:

Establishes a process for the selection and review of applications for Subacute Care Hospital Models as required under the Alternative Health Care Delivery Act. These regulations will not impact on local governments.

11) Time, Place, and Manner in which Interested Persons May Comment on this Rulemaking:

Interested persons may present their comments concerning these rules by writing to Gail M. Devito, Division of Governmental Affairs, Illinois Department of Public Health, 535 West Jefferson, Fifth Floor, Springfield, Illinois 62761 within 45 days after this issue of the Illinois Register. (Phone: 217/782-6187)

These rules may have an impact on small businesses. In accordance with the Illinois Administrative Procedure Act, any small business may present their comments in writing to Gail M. Devito at the above address.

Any small business, as defined in the Illinois Administrative Procedure Act, commenting on these rules shall indicate their status as such, in writing, in their comments.

12) Initial Regulatory Flexibility Analysis:A) Type of Small Businesses Affected:

None

B) Reporting, Bookkeeping or other Procedures Required for Compliance:

None

C) Types of Professional Skills Necessary for Compliance:

None

The text of the Proposed Amendments is identical to Emergency Amendments that appear in this issue of the Illinois Register on page 1943.

## DEPARTMENT OF CHILDREN AND FAMILY SERVICES

## NOTICE OF ADOPTED AMENDMENTS

- 1) Heading of the Part: Licensing Standards for Foster Family Homes
- 2) Code Citation: 89 Ill. Adm. Code 402
- 3) Section Numbers: Adopted Action:  
402.2 Amend  
402.7 Amend
- 4) Statutory Authority: Implementing and authorized by the Child Care Act of 1969, as amended [225 ILCS 10/1].
- 5) Effective Date of Amendments: February 1, 1995
- 6) Does this rulemaking contain an automatic repeal date: No
- 7) Do these amendments contain incorporations by reference? No.
- 8) Date Filed in Agency's Principal Office: February 1, 1995
- 9) Notice(s) of Proposal Published in Illinois Register: June 3, 1994 at 18 Ill. Reg. 8237.
- 10) Has JCAR issued a Statement of Objections to this (these) rule(s)? No.
- 11) Difference(s) between proposal and final version:

## Section 402.2

In the definition of "Classifiable fingerprints", second line - Change "which provide" to "which were determined to provide".

Insert the following definition after the definition of "Foster family home":

"LEADS" means the Law Enforcement Agency Data System.

## "Section 402.7

(a) Amend to read:

A two month permit may be issued only with the personal written approval of the Director when:

(a)(2) Replace "Part" with "89 Ill. Adm. Code". Change the added language to read:

classifiable fingerprints, as defined in this Part, have been

## DEPARTMENT OF CHILDREN AND FAMILY SERVICES

## NOTICE OF ADOPTED AMENDMENTS

obtained, and a LEADS check has been completed which finds no history of criminal activities for the foster home applicants.

(a)(3) Replace proposed item (3) with the following:

A complete licensing study has been conducted by the licensing representative and it has been determined that the family is in reasonable compliance with all applicable standards except for receipt, review, and disposition of the criminal background check required by 89 Ill. Adm. Code 380, Background Check of Foster Family Home Applicants:

(a)(5)(C) Delete the "and" at the end of the item.

(a)(5)(D) Change to read:

acknowledgements that the permit may be cancelled and the Department will refuse to issue a license if the results of the criminal background check are unfavorable; and

(a)(5)(E) Change to read:

acknowledgements that any children placed in their care will be removed without prior notice if information provided during the application process has been falsified or the applicants have a prior criminal history, other than for a minor traffic violation.

(e) Remove the proposed, added language.

(g) Remove the strike out from "two month".

12) Have all the changes agreed upon by the agency and JCAR been made as indicated in the agreement letter issued by JCAR? Yes.

13) Will these amendments replace an emergency rule currently in effect? No.

14) Are there any amendments pending on this Part? No.

15) Summary and Purpose of these amendments: These amendments allow the issuance of foster parent permits in narrow circumstances when the foster parent applicants are in compliance with the licensing standards, have passed a check of the Law Enforcement Agency Data System, and have signed various acknowledgements with regard to their status as a foster parent.

16) Information and questions regarding these amendments shall be directed to:  
Jacqueline Nottingham, Chief  
Office of Rules and Procedures

## DEPARTMENT OF CHILDREN AND FAMILY SERVICES

## NOTICE OF ADOPTED AMENDMENTS

Department of Children and Family Services  
 406 East Monroe, Station 222  
 Springfield, Illinois 62701-1498  
 TDD: 217/524-1983 TDD: 217/524-3715

## DEPARTMENT OF CHILDREN AND FAMILY SERVICES

## NOTICE OF ADOPTED AMENDMENTS

TITLE 89: SOCIAL SERVICES  
 CHAPTER III: DEPARTMENT OF CHILDREN AND FAMILY SERVICES  
 SUBCHAPTER e: REQUIREMENTS FOR LICENSURE

## PART 402

## LICENSING STANDARDS FOR FOSTER FAMILY HOMES

Section	Purpose
402.1	Definitions
402.2	Effective Date of Standards
402.3	Application for License
402.4	Application for Renewal of License
402.5	Provisions Pertaining to the License
402.6	Provisions Pertaining to Permits
402.7	General Requirements for the Foster Home
402.8	Requirements for Sleeping Arrangements
402.9	Nutrition and Meals
402.10	Business and Employment of Foster Parents
402.11	Qualifications of Foster Parents
402.12	Background Inquiry
402.13	Health of Foster Family
402.14	Number and Ages of Children Served
402.15	Meeting Basic Needs of Children
402.16	Health Care of Children
402.17	Religion
402.18	Recreation and Leisure Time
402.19	Education
402.20	Discipline of Children
402.21	Emergency Care of Children
402.22	Release of Children
402.23	Confidentiality of Information
402.24	Required Written Consents
402.25	Records to be Maintained
402.26	Licensing Supervision
402.27	Adoptive Homes
402.28	Severability of This Part
402.29	

AUTHORITY: Implementing and authorized by the Child Care Act of 1969 [225 ILCS 10].

SOURCE: Adopted and codified at 5 Ill. Reg. 9548, effective October 1, 1981; emergency amendment at 6 Ill. Reg. 15580, effective December 15, 1982, for a maximum of 150 days; amended at 7 Ill. Reg. 3439, effective April 4, 1983; amended at 7 Ill. Reg. 13858, effective November 1, 1983; amended at 8 Ill. Reg. 23197, effective December 3, 1984; amended at 11 Ill. Reg. 4292, effective March 1, 1987; emergency amendment at 16 Ill. Reg. 11879, effective July 13, 1992, for a maximum of 150 days; amended at 17 Ill. Reg. 267, effective



## DEPARTMENT OF CHILDREN AND FAMILY SERVICES

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December 21, 1992; emergency amendment at 18 Ill. Reg. 8481, effective May 20, 1994, for a maximum of 150 days; emergency expired on October 17, 1994; amended at 19 Ill. Reg. **1801**, effective **FEB 01 1995**.

## Section 402.2 Definitions

"Child" means any person under 18 years of age.

"Child care facility" means any person, group of persons, agency, association or corporation which arranges for or cares for children unrelated to the operator of the facility, apart from the parents. Child care facilities may be established for profit or not-for-profit.

"Classifiable fingerprints" means fingerprints have been obtained through an electronic or ink printing process which were determined to provide sufficiently clear impressions to identify the individual from whom the prints were obtained.

"Department" means the Department of Children and Family Services.

"Foster family home" means the residence of the family which provides full-time family care and training to children unrelated to them. Foster family homes are limited to a maximum of 8 children including the foster family's children unless all of the children unrelated to the foster family are of common parentage or the Director of the Department of Children and Family Services has waived the limit of 8 unrelated children for good cause pursuant to Section 402.15 (b) and only to facilitate an adoptive placement.

"LEADS" means the Law Enforcement Agency Data System.

"License" means a document issued by the Department of Children and Family Services which authorizes child care facilities to operate in accordance with applicable standards and the provisions of the Child Care Act.

"Licensee" means those individuals, agencies, or organizations who hold a license or permit issued by the Department of Children and Family Services.

"Licensing applicant" means those individuals, agencies, or organizations who applied for a license from the Department of Children and Family Services.

"Licensing representative" means those Department staff or other persons authorized under the Child Care Act to examine facilities for licensure.

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"Minor traffic violation", as used in this Part, means a traffic violation under the laws of the State of Illinois or any municipal authority therein or another state or municipal authority which resulted in a fine of \$100.00 or less without other penalty such as license suspension or revocation, probation, jail sentence or community service work.

"Permit" means a one-time only document issued by the Department of Children and Family Services for a two month period to allow the individual(s) to become eligible for a license.

"Supervising agency", for the purpose of this part, means a licensed child welfare agency, a license-exempt agency, or the Department of Children and Family Services.

(Source: Amended at 19 Ill. Reg. **1801**, effective **FEB 01 1995**)

## Section 402.7 Provisions Pertaining to Permits

a) ~~A permit shall not be issued until:~~ A two month permit may be issued only with the personal written approval of the Director of the Department when:

- 1) The application for license has been completed and signed by the foster parent applicant(s) and submitted to the Department;
- 2) The required background check forms have ~~has~~ been completed in accordance with Part 89 Ill. Adm. Code 380, Background Check of Foster Family Home Applicants, classifiable fingerprints, as defined in this Part, have been obtained, and a LEADS check has been completed which finds no history of criminal activities for the foster home applicants;
- 3) ~~A personal visit to the home by a licensing representative has been completed. The purpose of this visit is to determine compliance with all the licensing requirements except the requirements for remaining character references, medical examination reports, and well-water tests compliance which may be completed within the two-month period covered by the permit. However, when well-water tests are required, foster parents must agree to both all drinking and cooking water and to provide only bottled water for infants under the age of one year until the test results are received. A complete licensing study has been conducted by the licensing representative and it has been determined that the family is in reasonable compliance with all applicable standards except for receipt, review, and disposition of the criminal background check required by 89 Ill. Adm. Code 380, Background Check of Foster Family Home Applicants.~~
- 4) furnishing, equipment and space sufficient for the children have been acquired; and

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- 5) the applicants have signed:
- A) affidavits indicating that they have not been convicted or charged with a crime other than a minor traffic violation;
  - B) acknowledgments that, by virtue of being a foster parent, they are mandated to report suspected child abuse or neglect;
  - C) acknowledgements that the permit is time limited and issuance of a license is contingent upon the results of the criminal background check;
  - D) acknowledgements that the permit may be cancelled and the Department will refuse to issue a license if the results of the criminal background check are unfavorable; and
  - E) acknowledgements that any children placed in their care will be removed without prior notice if information provided during the application process has been falsified or the applicants have a prior criminal history, other than for a minor traffic violation.
- 5) ~~a written plan has been submitted to the licensing representative which indicates that requirements for a license shall be met within the two-month permit period;~~
- A permit shall not be issued retroactively.
  - Permits shall not be transferred to another person, organization or supervising agency.
  - Permits shall not be valid for a name or address different from the name and address shown on the issued permit.
  - Permits shall not be renewable.
  - A current permit shall be available in the foster home at all times.
  - A license shall be issued at any time within the two month period covered by the permit provided that the foster family home achieves compliance with the Department's licensing standards.
  - The foster family shall adhere to the provisions or restrictions specified on the permit.
  - There shall be no fee or charge for the permit.

(Source: Amended FEB 01 1995 at 19 Ill. Reg. 1802.1 effective )

## DEPARTMENT OF COMMERCE AND COMMUNITY AFFAIRS

## NOTICE OF ADOPTED AMENDMENTS

- Heading of the Part: Local Tourism and Convention Bureau Program
- Code Citation: 14 Ill. Adm. Code 550
- Section Numbers: Adopted Action:

550.40	Amendment
550.50	Amendment
550.60	Amendment
- Statutory Authority: Implementing and authorized by Ill. Rev. Stat. 1991, ch. 127, par. 46.6a [20 ILCS 605/46.6a].
- Effective Date of Rulemaking: February 7, 1995
- Does this rulemaking contain an automatic repeal date? No
- Does this rulemaking contain incorporations by reference? No.
- Date Filed in Agency's Principal Office: January 31, 1995
- Notice of Proposal Published in Illinois Register: September 16, 1994 (18 Ill. Reg. 14189).
- Has JCAR issued a Statement of Objections to these rules? No
- Difference(s) between proposal and final version:  
The following changes were made during the Second Notice period:  
Line 558 was changed from [805 ILCS 105/117.05] to 805 ILCS 105/117.05.  
Line 613 was changed from [805 ILCS 105/117.05] to 805 ILCS 105/117.05.
- Have all the changes agreed upon by the agency and JCAR been made as indicated in the agreement letter issued by JCAR? N/A.
- Will this rulemaking replace an emergency rule currently in effect? No
- Are there any amendments pending on this Part? No
- Summary and Purpose of Rulemaking:  
The current State-administered rules must be updated in order to allow local Bureaus to expend interest earned through the program year; to increase flexibility in time requirements for submittal of project approval requests; to raise the minimum costs required for bids; and clarify existing program rules.
- Information and questions regarding these adopted amendments shall be

DEPARTMENT OF COMMERCE AND COMMUNITY AFFAIRS

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directed to:

Name: Mr. Norman Sims, Deputy Director  
Address: Bureau of Community Development  
Department of Commerce and Community Affairs  
620 East Adams Street, 5th Floor  
Springfield, Illinois 62701  
Telephone: (217)785-6174  
T.D.D. Number: (217)785-6055

The full text of the Adopted Amendments begins on the next page:

DEPARTMENT OF COMMERCE AND COMMUNITY AFFAIRS

NOTICE OF ADOPTED AMENDMENTS

TITLE 14: COMMERCE  
SUBTITLE C: ECONOMIC DEVELOPMENT  
CHAPTER I: DEPARTMENT OF COMMERCE AND COMMUNITY AFFAIRS

PART 550  
LOCAL TOURISM AND CONVENTION BUREAU PROGRAM

Section	Purpose
550.10	Definitions
550.20	Allocation of Appropriations to Grantees
550.30	Eligible Applicants
550.35	Program Requirements
550.40	Administrative Requirements
550.50	Application Process

AUTHORITY: Implementing Section 46.6a of the Civil Administrative Code of Illinois [20 ILCS 605/46.6a] and Section 8.25 of the State Finance Act [30 ILCS 105/8.25] and authorized by Section 46.20 of the Civil Administrative Code of Illinois [20 ILCS 605/46.20].

SOURCE: Adopted at 9 Ill. Reg. 4775, effective April 4, 1985; amended at 12 Ill. Reg. 2226, effective January 19, 1988; amended at 14 Ill. Reg. 5091, effective March 20, 1990; emergency amendment at 14 Ill. Reg. 5565, effective March 28, 1990, for a maximum of 150 days; emergency expired August 25, 1990; amended at 14 Ill. Reg. 18746, effective November 9, 1990; amended at 15 Ill. Reg. 1798, effective January 29, 1991; emergency amendment at 15 Ill. Reg. 10498, effective June 26, 1991, for a maximum of 150 days; emergency expired November 23, 1991; amended at 16 Ill. Reg. 3464, effective February 20, 1992; amended at 16 Ill. Reg. 14628, effective September 14, 1992; amended at 19 Ill. Reg. **1808**, effective **FEB 07 1995**.

Section 550.40 Program Requirements

- a) Project Approval Criteria
- 1) All projects/expenditures utilizing LTCB grant funds shall be submitted to the Department for review and approval prior to project initiation.
  - 2) When the total cost for printed projects, purchase of premium items, or other projects deemed appropriate by the Department exceeds \$25005.000, a minimum of two bids using identical specifications shall accompany the project request.
  - 3) All projects funded through the grant program shall incorporate the current Department logo, as approved by the Department, which identifies the project as being developed in cooperation with the DCCA/Bureau of Tourism. A bureau which fails to include the Department identification shall reimburse the Department for State funds received in support of the project.



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- 4) The date and quantity printed (e.g., 7/91-50/m) shall appear on brochures.
- 5) The bureau shall bear sole responsibility for accuracy of information contained within material produced with grant funds.
- 6) All printed projects that are funded through LTCB grant funds shall be available on a gratis basis - free of charge - to the public.
- 7) Bureaus shall allow a minimum of 15 working calendar days prior to initiation of a project for review and notification. The Department shall waive the 15 working calendar days prior notice requirement when unforeseen opportunities for promotional projects arise which require an immediate review and response by the Department. The project review request shall include the following information:
- grant number;
  - project number;
  - bureau name;
  - project title;
  - description;
  - vendor name(s), description of services to be provided by vendor(s), and itemized costs;
  - estimated project cost, amount of LTCB funds, amount of local funds, total estimated project cost;
  - project requests which require waivers of the 15 working days prior notice shall include documentation to substantiate that such promotional projects require immediate review/approval by the Department to ensure the opportunities are not lost;
- I) check-off list for the following:
- evidence of bid solicitation when the total cost for printed projects, purchase of premium items, or other projects deemed appropriate by the Department exceeds \$25005.000;
  - mock-ups or samples of projects;
  - Department logo;
  - whether project is outlined in LTCB "Line Item Budget"; and
  - review, approval, and sign-off.
- 8) If the project review request form is complete and is accompanied by the required supporting documentation, including current Department logo, and is determined to be an eligible project, the project will be approved, subject to fund availability.
- 9) Project costs shall be deducted from future grant payments when bureaus fail three times to submit project review requests for prior approval during the program year. Projects granted waivers of the 15 working days prior notice shall not be counted under this subsection.
- 10) Within 30 days after completion of a project, up to 10% of the

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- brochures printed shall may be required to be sent to the Bureau of Tourism, Warrenton located in Springfield Department's tourist information centers. The Department reserves the right to request up to 10% of all other items produced with grant funds.
- 11) Project activities funded under this Part shall not duplicate any activity project funded by the Tourism-Matching-Grant-Program-44111-Adm--Code-519-Suppart-A7 Department.
- 12) Salaries and related payroll expenses for the program year shall not exceed half of the total grant funds.
- 100% sales/promotion staff persons salary may be applied toward half of the total grant.
  - 50% Executive Director's salary may be applied toward half of the total grant.
- 13) Bureaus are prohibited from hiring any immediate family member of their current staff utilizing funds under this Part or immediate family member of a board member who is involved in the hiring decision of staff, if grant or match funds are utilized. Immediate family members shall include a spouse, mother, father, daughter, and son.
- b) Promotional Projects
- Examples of eligible promotional projects include, but are not limited to:
    - Brochures;
    - Travel/trade show booth space rental, purchase of booth, registration fees, and/or travel expenses (transportation, lodging, per diem at State rate) for a maximum of 2 staff. Justification shall accompany requests for additional people to attend;
    - Sponsorship of familiarization tours;
    - Placement and production costs of newspaper, magazine, radio, or television advertising to promote travel. Advertising shall be placed outside a 65-mile radius of the attraction, event or area being promoted unless a major market (e.g., Chicago, St. Louis) falls within the 65-mile radius;
    - Membership dues for travel related associations or organizations;
    - Billboards;
    - Premiums/ specialty items for promotional purposes with Department recognition (see subsection(a)(3));
    - Production of videos for use in familiarization or travel/trade industry;
    - Salaries (see subsection (a)(12));
    - Posters and flyers distributed outside of service area;
    - Projects distributed locally, if the bureau can demonstrate the project's ability to increase overnight stays in the service area;
    - Marketing research studies in relation to advertising; and

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- M) "800" telephone lines for information.
- 2) Examples of projects ineligible for grant promotional funding include, but are not limited to:
- A) ~~Any type of xeroxed materials;~~
  - BA) Any administrative expenses (xeroxing, postage, insurance, audits, accounting services, phone, rent, supplies, or equipment);
  - EB) Purchase of any alcoholic beverage;
  - PC) Feasibility studies; and
  - ED) Salaries of administrative or support staff.
- c) Administrative Activities
- 1) Examples of activities eligible for grant administrative funding including, but are not limited to:
- A) Any administrative expenses (xeroxing, postage, insurance, audits, accounting services, phone, rent, supplies, or equipment); and
  - B) Salaries of administrative or support staff.
- 2) Examples of activities ineligible for grant administrative funding include, but are not limited to:
- A) Lease/purchase agreements for any items;
  - B) Purchase of equipment;
  - C) Purchase of any alcoholic beverage;
  - D) Feasibility studies; and
  - E) Penalties, fines, late payment fees, service or interest charges.
- d) All project activities shall be subject to prior approval as stated under subsection (a) of this Section.

(Source: Amended at 19 Ill. Reg. **1808**, effective **FEB 07 1995**)

## Section 550.50 Administrative Requirements

- a) Grant Limitation: No bureau shall receive a grant for funds allocated in accordance with Section 550.30(b) in excess of \$425,000 per fiscal year. A bureau may contact the Department for information regarding the amount of funds it is eligible to receive in accordance with Section 550.30.
- b) Administrative Costs: Administrative costs shall be limited to not more than 10% of the grant funds awarded (see Section 550.40 (c)).
- c) Promotional Costs: Promotional costs shall be limited to not less than 90% of the grant funds awarded (see Section 550.40(b)).
- d) Matching Funds: Each bureau shall provide a dollar-for-dollar match for funds received under this program. Match expenditures shall equal or exceed grant funds expended, as well as any interest earned on grant funds which is also expended. Bureaus must receive prior Department approval (See Section 550.40(a)) on contractual cooperative promotional project agreements used to satisfy match requirements.

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- In-kind contributions shall not be used to satisfy match requirements.
- 1) Local match shall:
- A) be under the control of the bureau,
  - B) be identified in the bureau's grant application for the applicable fiscal year,
  - C) be expended during the applicable grant award period,
  - D) be supported by records of deposit and documentation of expenditures,
  - E) be expended by the bureau from funds in bureau accounts solely for the administration of the bureau and tourism promotion of their service area as a destination for overnight visitors, and
  - F) not be refunded to any local source of match and still qualify as match.
- 2) Sources of Eligible Match: The following monies, when received through a bureau's budget, may be used as match for state grant funds:
- A) Local hotel/motel taxes,
  - B) membership dues,
  - C) interest on local monies, and
  - D) cash contributions, and
  - E) Federal dollars deposited directly to the grantee for tourism promotional purposes which do not require a match.
- 3) Ineligible Match:
- A) In-kind contributions such as donated services, donated space, donated equipment, services of volunteers, services in lieu of cash, or any non-monetary item;
  - B) State or federal funds other than those allowed in subsection (d)(2)(E) above;
  - C) Monies used as match for other state or federal grants;
  - D) Penalties, fines, late payment fees, or interest charges; and
  - E) Pass-through accounts.
- e) Method of Compensation: Payments pursuant to a grant shall be subject to the availability of funds appropriated by the General Assembly.
- 1) The bureau shall receive grant funds, as stipulated in the grant document, upon approval of its application by the Department and signature of the grant document by the Executive Director of the bureau and by the Department.
- 2) Prior to funds being awarded, a bureau shall employ a full-time paid, professional Executive Director, devoting at least 35 hours per week to the development and growth of tourism within a bureau's region.
- f) Reporting Requirements: The penalty for failure to comply with the timely submission of financial and programmatic reports (described in subsections (f)(1), and (2), and (3) below) shall be the withholding of subsequent monthly grant checks until all required reports are filed. The Department reserves the right to request additional

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information to clarify or document information on financial, programmatic, or personnel activities outlined in the reports.

- 1) Financial Reporting - Quarterly financial status reports shall be due no later than the 30th day of October, January, April and July ~~beginning with the quarter following the effective date of the project~~ and a lapse report shall be due September 15. The quarterly and lapse financial reports shall specify the grant number, grantee name, grant period, report period, bureau director's name/signature, and date. Additionally, the quarterly and lapse financial reports shall contain the following information which must be broken down between programmatic costs (to be at least 90% of grant total awarded), administrative costs (not to exceed 10% of grant total awarded), and match costs:

- A) Expenditure line-item breakout for State promotional costs indicating applicable report period which includes check number(s), project number(s), payee(s), description of purchase(s)/service(s), amount of each check, and total promotional grant cost(s) expended for the report period.
- B) Expenditure line-item breakout for State administrative costs indicating applicable report period which includes check number(s), project number(s), payee(s), description of purchase(s)/service(s), amount of each check, and total administrative grant costs expended for the report period.
- C) Expenditure line-item breakout for ~~total~~ match costs indicating applicable report period which includes check number(s), payee(s), description(s) of purchase(s)/service(s), amount of check(s), and total ~~total~~ match cost(s) expended.
- D) Expenditure Summary which includes vendor name(s), description(s) of services, ~~estimated---cost(s)~~ actual cost(s), cancelled check number(s), and total(s) for all actual cost(s) ~~and-estimated-cost(s)~~ listed.
- E) Reimbursement Summary indicating report period which includes check number(s), ~~project---number(s)~~ check amount(s), reimbursement amount(s), cumulative balance, as well as totals for all figures.
- F) Personnel activity information for personnel paid with LTCB grant funds which shall include: bureau name; grant number; employee name, payroll title, and signature; time period covered; supervisor's signature as approval; employee hourly monthly rate; ~~actual-hours-or~~ percent of time spent on each activity; ~~and-total-hours-or~~ percent of time paid from LTCB grant funds and from local funds; description of activity (if job description is not on file in the Illinois Bureau of Tourism Office).
- G) Travel Expenditure Summary which includes applicable report period, traveler's name and signature, project number and title, date(s) of travel, destination(s), and allowable

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- 2) Performance Measurements Summaries shall be submitted with quarterly reports and shall contain the following information:

- A) Conventions- total number of delegates and number of room nights;
- B) Motorcoach- total number of room nights, total number of overnight tours, and total number of day tours;
- C) Trade shows- total number of room nights, total number of attendees; and
- D) Special events- total number of room nights, total number of attendees.

B) ~~visitors-information--total-number-of-requests-for--visitors~~ information:

- 3) Programmatic Reporting - Final programmatic reports shall be due September 15 for both ~~state-and-match~~ grant funds. Bureau name, grant period, name/title/signature of bureau staff person submitting report, grant number, and date submitted shall be specified. Activity-~~funded-through--the--total--match--budget~~ ~~for-donor-match-only--does-not-have-to-re-proven-but--of~~ ~~project--type--the-report-for-local-match-activity-shall-provide~~ ~~the-grant-award-amount--project--description--costs--per~~ ~~project--total-costs--and-results-of-the-project--a-comparison~~ of results of promotional activities for the program year to those projected in grantee's Fiscal Year Marketing Plan as submitted in the application must be provided, consisting of a brief narrative as to how the bureau's service area was benefited from these expenditures. Activity for LTCB-funded projects shall be broken down by project type as follows:

- A) ~~Convention-Marketing--and--Promotion~~ Meeting and Convention Market
  - it Project-description(s)
  - it Costs-per-project
  - it Results
- B) ~~Travel--Shows--Marketing--and-Promotion~~ Motorcoach and Group Tour Market
  - it Project-description(s)
  - it Costs-per-project
  - it Results
- C) ~~Motorcoach-Marketing--and-Promotion~~ Festival/Special Events
  - it Project-description(s)
  - it Costs-per-project
  - it Results
- D) ~~Sales-Marketing-Personnel/Consumer/Leisure Market~~
  - it Project-description(s)
  - it Costs-per-project
  - it Results
- B) ~~Festivals/Special-Events-Marketing--and-Promotions~~
  - it Project-description(s)



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- ~~+++ Costs-per-project~~  
~~+++ Results-~~  
~~+++ Miscellaneous Projects~~  
~~++ Project-descriptions++~~  
~~+++ Costs-per-project~~  
~~+++ Results-~~

g) Financial Management Standards: A bureau's financial management systems shall be structured under the Accounting Standards of the Financial Accounting Standards Board of the American Institute of Certified Public Accountants (AICPA) (1211 Avenue of the Americas, New York, N.Y. 10036-8775) September 19, 1987 with no later amendments or editions. The bureau shall be accountable for all funds received under this program. The bureau shall maintain effective control and accountability over all funds, ~~equipment~~ property, and other assets under the grant as required by the Department. The bureau shall keep records which detail the expenditures of grant and match funds and accurately document such expenditures.

h) Travel Expenses: Costs in accordance with the latest State of Illinois Department of Central Management Services Travel Regulations (80 Ill. Adm. Code 2800) shall be allowable for expenses of transportation, lodging, per diem, and related items incurred by employees who are in travel status for official business outside the bureau's service area. The bureau shall retain receipts as source documentation for travel expenses of its employees. The bureau shall also submit to the Department a completed report for travel expenses with the quarterly reports.

i) Monitoring: The Department shall on-site monitor each bureau funded under this program periodically by visits throughout the period covered under the grant agreement. The Department will notify the bureau ~~in-writing-or-by-telephone~~ at least two working days in advance of monitoring visits. The bureau's ~~marketing-plan~~ internal procedures, financial reporting, and program shall be evaluated for compliance with terms and conditions of the grant document. The Department reserves the right to request additional information prior to ~~toe~~ during, or subsequent to monitoring visits.

j) Interest on Grant Funds: All interest earned on LTCB grant funds held by the bureau under the grant shall be spent on promotional projects approved by the Department, or returned to the Department at the end of the grant period.

k) Obligation of Grant Funds: All grant funds shall be obligated with respective vendor(s) prior to June 30 of the current fiscal year. Any ~~overpayment--of~~ grant funds not obligated (unobligated funds) shall be refunded to the Department by August October 15. In addition, the bureau shall repay the Department for any funds that are determined by the Department through monitoring (subsection (i) of this Section) and audit (subsection (l) of this Section) to have been spent in violation of the grant document. All obligations shall be expended prior to August 31.

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l) Audits: The bureau shall conduct an audit of all grant and match program records which reflect the actual activities conducted and the actual costs and expenses incurred by the bureau using an independent certified public accountant, licensed by authority of the State of Illinois. The audit shall be conducted in accordance with generally accepted auditing standards adopted by the Codification of Statements on Auditing Standards (January 1983) of the AICPA and shall be submitted to the Department within twelve months after the end of the grantee's fiscal year. Any bureau determined to have misused program funds by fraud as a result of an audit shall be ineligible to apply for and receive funds under this program for a period not to exceed two years. The Department shall reserve the right to perform special audits of these funds during normal working hours.

m) Nondiscrimination: Bureaus shall refrain from unlawful discrimination in employment and will undertake affirmative action to assure equality of employment opportunity and eliminate the effects of past discrimination in accordance with the Illinois Human Rights Act ~~Rev--Stat--1991--ch--68--par--1-101-et-seq--7~~ [775 ILCS 5]; Section 504 and the equal opportunity clause promulgated thereto of the Rehabilitation Act of 1973, as amended, 29 U.S.C. 794 (1994); the Age Discrimination Act of 1975, 42 U.S.C. 6186-6187 6101 et seq. (1994); and Title VI of the Civil Rights Act of 1964, as amended, 42 U.S.C. 1981 et seq. (1994) 424-cpr-17.

n) Complaint Process: In the case of a grantee complaint, the Department shall follow the procedures outlined in 47 Ill. Adm. Code 10 (Review and Appeal Procedures).

o) Bids Solicitation: When the total cost for printed projects, purchase of premium items, or other projects deemed appropriate by the Department exceeds \$25000, a minimum of two bids using identical specifications shall accompany the project request. Evidence of compliance with this subsection (i.e., copies of at least two bid proposals) shall be submitted with project approval request. For any purchasing and/or printing costs where the lowest bid is not accepted, documentation (e.g., project specifications and quality requirements) shall be submitted with project approval request.

p) Bid Rigging/Rotating: Bureaus shall certify that they have not been barred from bidding on or receiving State contracts as a result of illegal bid rigging or bid rotating as defined in Sections 33B-3 and 33E-4 of the Criminal Code of 1961 (720 ILCS 5/33E-3 and 33E-4) ~~Rev--Stat--1991--ch--38--par--3-E-3-and-3-E-4~~ ~~+++~~.

q) Separate Account: A separate interest-bearing bank account shall be established for the purpose of this program. Two authorizing signatures shall be required for the account. Only grant funds received under this program shall be deposited in this account unless local funds are deposited in the account to maintain a minimum balance to avoid finance charges.

r) Suspension and Termination:

- 1) If a bureau has failed to comply with the terms and conditions of

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the grant document, the Department shall suspend the grant and withhold further payments until the grant is terminated, or the bureau has achieved compliance. The Department will determine that a bureau has failed to comply with the terms and conditions of a grant when:

- A) The bureau has been notified in writing of the existence of circumstances which the Department considers to be inconsistent with the terms and conditions of the grant (e.g., consistent failure to submit required reports or evidence of fraud and abuse); and
- B) The bureau fails to develop, submit, and implement a corrective action plan within 45 days of the Department's notice.

- 2) A grant shall be terminated in the absence of full State funding; if the Department determines that the bureau has failed to comply with the terms and conditions of the grant in whole or in part; or if the Department and the bureau agree to terminate the grant.
- s) Reallocation of Funds: The grantee shall be required to identify that amount of its grant funds which will not be fully obligated by the end of the fiscal year, on or before May 1 of the current fiscal year. The grant document shall be decreased by the specified amount and such funds shall be reallocated by the Department to grantees who apply for (see application procedures specified in Section 550.60(d)) and can utilize available funds by the end of the fiscal year for new promotional projects.

- t) Bribery: The bureau's executive director/chief executive officer certifies to the best of his/her knowledge that no official, agent, or employee of the grantee has been convicted of bribery or attempting to bribe an officer or employee of the State of Illinois, nor has any such officer, agent, or employee made an admission of guilt of such conduct which is a matter of record.

- u) Conflict of Interest:

- 1) The bureau shall certify that no person who in any manner governs, advises, consults with, is employed by, is an officer of, or is an elected or appointed official of the bureau, or any governing board or entity of the bureau, nor any husband, wife, or minor child of that person, shall be in any manner interested, either directly or indirectly, in any contract or work awarded by the bureau unless the following requirements are met:

- A) The bureau notifies the Department, in writing, of the nature of the conflict of interest and receives written notification of approval from the Department to proceed with the process of bidding or letting of the contract. The Department shall approve if the bureau demonstrates that the best interest of the State outweighs the conflict of interest at issue; and
- B) The bureau discloses, for the record, the existence of the conflict of interest at any meeting held to consider the

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acceptance of bids or letting of contracts; the interested person abstains from discussing, voting on, or influencing the acceptance of bids or letting of contracts, and removes himself or herself from the meeting room during the time the bids or contracts are discussed and voted upon.

- 2) Violations of this provision shall result in suspension or revocation of the grant, or both, and reimbursement to the Department by the bureau of grant funds. Violators shall also be criminally liable under other applicable State laws and subject to actions up to and including felony prosecution.

(Source: Amended at 19 Ill. Reg. 1808, effective FEB 07 1995)

## Section 550.60 Application Process

- a) The application procedure consists of a three-step process:
  - 1) Public notification by the Department of the amount of funds available for the LTCB program.
  - 2) A request for certification.
  - 3) An application for grant funds.
- b) Each year on or about January 1, the Department shall publish, three separate times, with the first and last notification 10 days apart, in the official state newspaper, a notification which includes the following:
  - 1) Amount of funds available under the LTCB program as of July 1.
  - 2) That applicants must contact the Department to obtain criteria for certification under the Act.
  - 3) That applicants must submit a request by March 31 for certification by the Department as the entity entitled to receive those funds under the Act.

- c) Certification

- 1) Any applicant seeking certification as a local tourism and convention bureau who has previously been certified through the Local Tourism and Convention Bureau Program shall be recertified each year by the Department.

- A) An applicant shall meet the following eligibility criteria in order to be considered for certification:

- i) Have been a bureau in legal existence as of January 1, 1985, either as a unit of local government or incorporated as a not-for-profit corporation or organization (as evidenced by dated promotional materials which document that the applicant was conducting tourism promotional activities prior to January 1, 1985);
- ii) Represent one or more municipalities or counties which must be contiguous to one another; and
- iii) Employ one full-time paid professional executive

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director/chief executive officer that devotes all time to development and growth of tourism within the bureau's region.

- B) An eligible applicant shall submit the following material to be considered for certification:

- i) a request for certification;
  - ii) articles of incorporation as a not-for-profit corporation organized prior to January 1, 1985, under the applicable incorporation laws during the aforementioned dates, i.e., the General Not-For-Profit Corporation Act (Ill. Rev. Stat. 1991, ch. 32, pars. 163a et seq.), repealed by 805 ILCS 105/117.05, or a statement/resolution signed by the head of the unit(s) of local government which the bureau represents;
  - iii) a statement that it employs a full-time paid professional executive director/chief executive officer that devotes all time to development and growth of tourism within the bureau's region, prior to receiving State grant funds;
  - iv) a statement listing the city(ies), town(s) or county(ies) in its service area, including a current letter from the governing bodies of these entities;
  - v) a complete listing of hotel/motels collecting the State's hotel/motel tax (including addresses and telephone numbers) within its service area and the number of rooms/units in each; and
  - vi) a certified statement by the applicant's fiscal officer, accountant, or treasurer of local funds in the applicant's budget received in the fiscal year prior to certification which can be used for match for the State grant.
- 2) Any applicant seeking certification as a local tourism and convention bureau who has not previously been certified through the Local Tourism and Convention Bureau Program shall be certified by the Department.
- A) In order to be considered for certification, an applicant shall meet the eligibility criteria specified in subsections (c)(1)(A)(i) through (iii). Additionally, in order to be eligible, their service area shall contain at least 500 hotel/motel rooms eligible to collect the state's hotel/motel tax.
  - B) An eligible applicant shall submit the following material to be considered eligible for certification:
    - i) a request for certification;
    - ii) a statement including a description of its history, describing previous efforts to further the growth of the State's travel industry as evidenced by documentation of previous promotional activities prior

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to January 1, 1985 (e.g., brochures or pamphlets used to encourage visits or visitors to and through Illinois);

- iii) a statement that it employs a full-time paid, professional executive director/chief executive officer who devotes all time to development and growth of tourism within the bureau's region prior to receiving State grant funds. This shall include a summarization of his or her tourism related experience and a synopsis of his or her duties;
  - iv) articles of incorporation as a not-for-profit corporation organized prior to January 1, 1985, under the applicable incorporation laws during the aforementioned dates, i.e., the General Not-For-Profit Corporation Act (Ill. Rev. Stat. 1991, ch. 32, pars. 163a et seq.), repealed by 805 ILCS 105/117.05, or a statement/resolution signed by the head of the unit(s) of local government which the bureau represents;
  - v) a statement listing the city(ies), town(s) or county(ies) in its service area, including a current resolution from the governing bodies of these entities;
  - vi) a complete listing of hotels/motels collecting the state's hotel/motel tax (including address and telephone numbers) within its service area and the number of rooms/units in each;
  - vii) a certified statement by the applicant's fiscal officer, accountant, or treasurer of local funds in the applicant's budget received in the fiscal year prior to certification which can be used for match for the State grant; and
  - viii) documentation showing unsatisfactory representation if the proposed area of the new bureau is currently represented by an existing bureau.
- 3) ~~Thirty--(30)~~ Within Sixty (60) days after receipt deadline of all requests for certification under subsection (b), the Department shall send a notice to each applicant seeking certification, informing the applicant of its status.
- A) When a single local bureau seeks certification and has submitted all documentation required in subsections (c)(1) and (2) of this Section, and such documentation meets the approval of the Department, such bureau shall be certified by the Department and the Department shall send notification of certification, amount of potential funds available in the respective service area, and an application for grant funds.
  - B) When more than one local bureau seeks certification for the ~~same--city--town--or--county~~ identical service area, the Department shall send each a request for proposal (RFP).



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Proposals shall require the following information which shall be given equal weight in the evaluation of each proposal:

- i) bureau's background, organization, experience and staff qualifications,
- ii) a detailed marketing plan which includes such items as a description of activities contemplated by the bureau, objectives (long and short-term), methodology used to measure program effectiveness, intended audience, distribution targets for promotional materials, and projected economic impact and benefit to tourism, and
- iii) any marketing or feasibility studies in support of the plan.

C) Within fifteen (15) days after receipt of the RFPs, the Department shall notify in writing each local bureau of certification determinations.

i) The Department shall send written notification of certification, amount of potential funds available in the respective service area, and an application for grant funds to the certified bureau, and notify all other applicants of the determination.

ii) A bureau which is not certified shall have the right to appeal the Department's certification decision to the Director within ten (10) calendar days after receipt of such notice. The request for review shall be submitted in writing to the Department and shall contain the reasons for appeal and any additional tourism related information the applicant chooses to submit in support of their appeal. The Director shall render a decision no later than fifteen (15) calendar days thereafter. The Director shall make his determination based upon his review of the information required by subsection (c)(3)(B) of this Section and any additional material submitted by the applicant with their appeal.

d) Application by Certified Bureaus for Funds Under the Act:

1) All certified bureaus shall complete an application for funding. The bureau shall retain one copy and submit three copies of the application to the Manager of the Local Tourism and Convention Bureau Program. Failure to provide any information requested in the application shall result in the application not being processed. A certified bureau's application for funding under the Local Tourism and Convention Bureau Program shall include the following information:

- A) Full-time local bureau executive director's name, salary, and length of employment with bureau.
- B) A marketing plan detailing all activities to be initiated

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and funded through the LTCB grant during the fiscal year.  
C) Area to be served such as municipality(ies), county(ies), etc.

D) Itemized budget for activities proposed for funding under LTCB monies only.

E) Local operating budget based on state fiscal year. Only match funds shall be reflected on this form.

F) Name of the financial institution that serves as the depositor for LTCB grant funds.

G) Fund account number for LTCB grant funds.

H) Names, titles, and sample signatures for those persons who will be required to authorize all account transactions, with a minimum of two required. Local--Tourism--and--Convention Bureau--grant--funds--shall--be--deposited--in--an--interest--bearing account:

i) Name--and--sample--signature--for--individuals--designated--as--authorized--signatures--for--grant--awards--in--voice--vouchers, and--expenditure--summary--and--payment--request--forms:

2) Upon receipt of applications from certified bureaus the Department shall review the applications and

A) grant the full amount requested, or

B) ask for additional information to clarify or document the information contained in the application, and/or

C) reduce the amount of funds requested if there are not sufficient funds available to match the full amount, or the projects presented in the marketing plan do not focus on important tourism promotional activities and have little substance, i.e., no media promotions planned, no promotional materials being developed, the projects are not reasonable and are not consistent and workable and the applicant cannot effectively carry out the projects. In the event that funding of a grant request is lowered, the bureau(s) shall be entitled to appeal to the Director of the Department within 10 days. The request for review shall be submitted in writing to the Director and shall contain the reasons for appeal and any additional tourism related information the bureau chooses to submit in support of their appeal. The Director shall make his decision based upon the criteria previously specified in this subsection and any additional material submitted by the bureau with their appeal. The Department shall notify these bureaus in writing of its decision within 15 days after receipt of their appeal.

(Source: Amended at 19 Ill. Reg. 1808.1, effective FEB 07 1995)

## ILLINOIS HEALTH CARE COST CONTAINMENT COUNCIL

## NOTICE OF ADOPTED AMENDMENTS

- 1) Heading of the Part: Data Collections
- 2) Code Citation: 77 Ill. Adm. Code 2510
- 3) Section Numbers: Adopted Action:  
2510.70 Amendment
- 4) Statutory Authority: Section 2-3 of Article II and Section 4-2 of Article IV of the Illinois Health Finance Reform Act [20 ILCS 2215/Art. IV and 2-3-3]
- 5) Effective Date of Rulemaking: February 6, 1995
- 6) Does this rulemaking contain an automatic repeal date? No
- 7) Does this rulemaking contain incorporations by reference? No.
- 8) Date Filed in Agency's Principal Office: August 23, 1994
- 9) Notice of Proposal Published in Illinois Register:  
September 30, 1994, 18 Ill. Reg. 14533
- 10) Has JCAR issued a Statement of Objections to these rules? No
- 11) Difference(s) between proposal and final version:  
None
- 12) Have all the changes agreed upon by the agency and JCAR been made as indicated in the agreement letter issued by JCAR? N/A
- 13) Will this rulemaking replace an emergency rule currently in effect? No
- 14) Are there any amendments pending on this Part? Yes

The full text of the Adopted Amendment(s) begins on the next page.

## ILLINOIS HEALTH CARE COST CONTAINMENT COUNCIL

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- TITLE 77: PUBLIC HEALTH  
CHAPTER XI: ILLINOIS HEALTH CARE COST CONTAINMENT COUNCIL

PART 2510  
DATA COLLECTION

Section
2510.10 Purpose
2510.20 Outside Contractor
2510.30 Collection and Submission of Hospital Financial Data
2510.40 Submission of Medicare Cost Reports
2510.50 Collection of Information on Uniform Billing Form
2510.55 Report of Inpatient Discharges
2510.60 Quarterly Reports
2510.70 Special Studies and Analysis
2510.80 Confidentiality
2510.90 Hospital Review
APPENDIX A Illinois Health Care Cost Containment Council Annual Financial Data Report
APPENDIX B UB-82 Magnetic Media Record Format
APPENDIX C UB-82 Uniform Bill Data Fields
APPENDIX D UB-92 Magnetic Media Record Format
APPENDIX E UB-92 Uniform Bill Data Fields

**AUTHORITY:** Implementing Article IV and authorized by Section 2-3 of Article II of the Illinois Health Finance Reform Act (Ill. Rev. Stat. 1991, ch. 111 1/2, pars. 6504-1 et seq. and par. 6502-3) [20 ILCS 2215/2-3 and Art. IV].

**SOURCE:** Adopted and codified at 9 Ill. Reg. 12726, effective August 5, 1985; amended at 10 Ill. Reg. 18790, effective October 17, 1986; amended at 11 Ill. Reg. 1574, effective January 2, 1987; amended at 12 Ill. Reg. 6102, effective March 21, 1988; amended at 13 Ill. Reg. 334, effective December 30, 1988; amended at 14 Ill. Reg. 2078, effective January 19, 1990; amended at 16 Ill. Reg. 8980, effective June 3, 1992; emergency amendment at 16 Ill. Reg. 19210, effective November 25, 1992, for a maximum of 150 days; emergency amendment at 17 Ill. Reg. 2031, effective January 29, 1993, for a maximum of 150 days; amended at 17 Ill. Reg. 9700, effective June 10, 1993; amended at 17 Ill. Reg. 9396, effective June 10, 1993; emergency amendment at 17 Ill. Reg. 14112, effective August 10, 1993, for a maximum of 150 days; emergency expired on January 7, 1994; amended at 18 Ill. Reg. 5300, effective March 21, 1994; emergency amendment at 18 Ill. Reg. 14809, effective September 12, 1994, for a maximum of 150 days; amended at 18 Ill. Reg. 16810, effective November 4, 1994; amended at 19 Ill. Reg. 1825, effective FEB 03 1995.

## Section 2510.70 Special Studies and Analysis

- a) In addition to the quarterly reports, the Council shall respond to requests by agencies of government and organizations in the private

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sector for special studies and analysis (hereafter referred to as a "compilation of data") collected pursuant to Sections 2510.30 and 2510.50 of this Part. No such requests shall be accepted by the Council prior to October 1, 1985.

- b) For purposes of this Part, a compilation of data is defined as a magnetic tape or diskette containing selected non-confidential data elements, a hard copy report or both.
- c) The Council shall not release any information for special studies and analysis which is not permitted to be released for other purposes by the Act. No patient identifiable information shall be released. No hospital specific financial information shall be released except as provided in Section 2510.30 of this Part. Only the information which can be released under the requirements of the Act shall be released. Special studies and analysis shall not be subject to The Freedom of Information Act.
- d) All requests for compilations of data shall be made in writing to the Executive Director. The written request shall at least contain the name, address, and telephone number of the requester; a description of the requested compilation of data; a short, plain statement of the reason for the request; and the relationship of the requested compilation to a legitimate purpose. A "legitimate purpose" is a purpose consistent with the intent, policies, and purposes of the Act.
- e) The Council shall review each request for a compilation of data and determine whether to approve or deny the request. The Council shall notify the public of requests made for compilations by listing the requester, and providing a short description of the request on its official meeting agenda. Such requests shall be approved only by the vote of a majority of the members of the Council who shall designate the form in which the information shall be made available. The approval or denial by the Council of requests for compilations of data shall be within the discretion of the Council. The Council may deny a request for a compilation of data for reasons including, but not limited to, unavailability of data; the requested compilation of data is already available from the Council or another source; the requested compilation of data would endanger patient confidentiality; or the request is not related to a legitimate purpose. No person or group may request such compilation of data concerning another person or group.
- f) The Council shall notify the requester in writing of its decision. Denial of a request shall include a brief explanation of the reason for the denial.
- g) The Council shall also determine a fee to be charged to the requesting entity which will cover at a minimum the direct and indirect costs of acquiring the information and of developing and producing the data product reports or special analyses. The Council shall establish prices by rule for each category of purchasers for each product and for the various terms under which such purchasers may wish to acquire products.

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## 1) Definition of Terms

- A) Public Release Product  
Products which the Council has determined may be released by staff without specific Council action on each order are referred to as Public Release Data Products. These products are said to be 'ordered' by the customer.
- B) Controlled Release Product  
Products which the Council has determined may not be released by staff without specific Council action on each order are to be referred to as Controlled Release Data Products. These products are said to be 'applied for' by the customer.
- C) Data Products  
Data Products are to be made available in units covering a time period to which the data are applicable. Orders, applications, prices and release conditions shall be specific to the unit of product concerned. Unit or product for Public DataSet, Universal DataSet, and Research Oriented DataSet shall be calendar quarter. Unit of product for the Patient Origin DataSet shall be calendar year.
- D) Purchase  
Data Products may be acquired for the single purpose and for the sole use of the ordering or applying entity. The Council filling an order or granting an application to a given entity shall be construed as giving permission for use only for the unit of product requested and, in the case of Controlled Release products, only for the purposes originally applied for. In granting such approval, the Council shall not be construed as giving permission for the ordering or applying entity to use the data released on behalf of any client, member, organization or other entity not specified in the original order or application.
- E) Licensure  
The Council may grant applications from corporations, vendors, or other organizations who wish to be licensed to acquire Council data and to release the information therein or derived therefrom to third parties. In the case of such licensure, the Council will grant explicit right to re-release excluded in the provisions for purchase, above. Licenses will be granted for specific purposes and classes of potential customers of the customer. Granting of a license for one purpose or one class of licensee shall not be construed as permission to release information to any other class of customer or for any other purpose. Licensees shall bear the burden of reasonable costs for the auditing of their accounts by the State or its agent for the purpose of ascertaining whether the terms of the license have been complied with.

## 2) Council Data Product Categories



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- A) Public Release Products  
For the purposes of this Part, the Public DataSet, Patient Origin DataSet, and Custom Reports or DataSets based upon them are to be regarded as Public Release Products.
- B) Controlled Release Products  
For the purposes of this Part, the Universal DataSet, Research Oriented DataSet, and Custom Reports or DataSets based upon them are to be regarded as Controlled Release Products.
- 3) Categories of Purchasers/Licensees and the Terms of Payment  
A) Category I: Private and For-Profit Organizations  
Corporations, associations, coalitions, and other entities which are not chartered by the State or Federal governments to fulfill general or specific government functions and which function in whole or in part for the benefit of the owners, members, or sponsors of the corporation or organization shall fall into this category. Such purchasers and applicants shall pay the full price set by the Council for the unit of product concerned.
- B) Category II: Illinois General Assembly and the Executive Office of the Governor  
In consideration of the public information mandate of the Council and the contribution of the General Revenue Fund to the activities of the Council, this category of purchaser shall receive Council reports and data products free of charge.
- C) Category III: Illinois Government and Education  
Other units of Illinois State, county, and local government, as well as State-run educational institutions, shall be deemed to fall into this category. They shall be granted a 50% (fifty percent) discount from the rate made above for Category I customers. Exceptions to this policy may be made when there is a working agreement between the Council and a requesting entity. When such an agreement is in effect, it shall govern the charge which shall be made to the requesting entity.
- D) Category IV: Other Government, Education, and Non-Profit Organizations  
The Federal government, governments of state and other political subdivisions outside of the State of Illinois, private educational institutions, and non-profit corporations shall be deemed to fall into this category. They shall be granted a 25% (twenty five percent) discount from the rate made above for Category I customers. Non-profit corporations which purchase or license:  
(i) on behalf, either in whole or in part, or  
(ii) for the substantial benefit,  
of for-profit entities shall not be deemed to be included in

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this category. Rather, such entities will be included in Category I. Exceptions to this policy may be made when there is a working agreement between the Council and a requesting entity. When such an agreement is in effect, it shall govern the charge which shall be made to the requesting entity.

E) Category V: Hospital Data Requests  
Illinois hospitals requesting access to final edited claims information from the Council, for purposes other than the hospital review process as required by Statute, Rule, and agreement, may purchase this data from the Council. Prices for hospitals for other products shall be as put forth for Category I, except in cases in which other agreements may be in place.

The Council, acting upon the evidence presented, shall determine the category in which any given customer shall be placed.

## 4) Volume Discounts

The Council shall provide for a 25% discount if a total of 4 quarters are ordered or applied for in the case of products for which the unit of product is a calendar quarter.

## 5) Category I Prices

Subject to discounts as set forth in subsections (g)(3) and (g)(4) above, customers shall pay all or part of the Class I fees set forth in the table below.

Product	Category I Price
Public DataSet (Tape)	\$1,500/quarter
Public DataSet (Diskette/Region)	\$750/Region
Universal DataSet	\$2,000/quarter
Research Oriented DataSet	\$3,000/quarter
Patent-Origin-DataSet	\$1,500/calendar-year
Patient Origin DataSet	\$450/calendar year
Hospital Data Requests	\$500/quarter
DRG Analyst	\$800/quarter
Custom-Reports-and-Datasets	\$500/subject-of-57000-records
--Subscriber-Fee	\$100/report
--Summary-Report	\$250-report
--Detail-Report	\$250-report
--DataSet-Fee	\$250-57000-records

6) Use for Additional Purpose Requires Additional Approval and Fee  
The prices and discounts set forth in this Part pertain to all applications for use. A purchaser having once paid the appropriate fee for one use must re-apply for use for any other purpose and make payment as shown in this Part for the additional use.

## 7) Revisions in Pricing

The Council will, from time to time, examine and may modify the prices set forth in this Part. All data products for the

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discharge time periods 1987 through 1991 shall be priced according to the original guidelines covering the period. All products for subsequent quarters shall be priced according to this Part.

## 8) Payment Terms

Payment by check or money order is required at the time the order or application is filed with the Council. The Council shall refund payments to applicants to which the Council votes not to release the data which were applied for.

## 9) Council Not Required to Perform Studies

While these Rules allow for applicants to request specific file formats and report layouts, the Council shall not accept applications to provide such unless it deems that it is in the best interest of the Council to do so, and that the requestor cannot reasonably be expected to derive the same result through purchase of an existing Data Product or Customized Report or DataSet.

A) When the Council does determine that it will perform a non-standard study for a requestor, the requestor shall pay the Council's estimated direct costs with a surcharge of 35% for indirect costs in advance of the performance of the study.

B) The Council may, at its discretion, apply discounts to the charges assessed requestors of this sort of service consistent with those set forth in subsection (g)(3) above.

## 10) Licensing Standards and Procedures

Pursuant to subsection (g)(1)(E) above, the Council may grant licenses to entities wishing to re-release data acquired from the Council or information derived therefrom. Such licenses are to be given for specified products and units of product. Licenses shall also be specific as to the purpose for which the data will be used by the licensee and those third parties to whom the licensee anticipates re-releasing information. Licenses for controlled release products shall be specific as to the class of third parties to whom the licensee may release the information. Having been granted permission for one product, unit of product, purpose or class of customer/third party, a licensee will need to re-apply and make additional payment for additional products, units of product, purposes and classes of customers.

## A) Fee Basis

Licenses shall be granted for a base fee to be paid by the licensee regardless of the number of third parties to whom the licensee intends to release the information, as well as per-customer fee for each customer. At the time of application for license, the prospective licensee shall state who the prospective customers are and pay the base fee and per-customer fees known at the time of application. Subsequently, the licensee shall pay the per-customer fee to

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the Council in advance of releasing information to the customer for each customer to whom the licensee releases information.

## B) Public and Controlled-Release Licenses

Licenses of Public Release Products may make the release to third parties contingent only upon making payment to the Council and good standing with the Council in performance of stipulated responsibilities in the license agreement. Licenses of Controlled Release Products must also have advance Council permission for release to each individual customer, unless otherwise agreed to by the Council in the license agreement.

## C) Base and Per-Customer Fees by Product

Subject to discounts as set forth in subsections (g)(3) and (g)(4) above, licensee shall pay all or part of the Class I fees set forth in this Part. Per Customer Fees will be \$1,000 per Category I customer, with discounts as set forth in subsections (g)(3) and (g)(4) above based upon the for-profit status of the individual customer.

## 11) Revisions in License Fees

The Council will, from time to time, examine and may modify the fees set forth in this Part.

A) On the effective date of this rulemaking, all licenses for the discharge time periods of 1987 through 1991 shall have the prices as set forth in this Part.

B) The Council shall make fee changes for subsequent calendar years coincident with availability of data for the first quarter of the newest calendar year.

C) Fees set for the newest calendar year shall not apply to licenses already in force for prior discharge years.

h) Basis of Charge for Other Services and Products of the Council

## 1) Inpatient Discharge Data Quarterly Reports

A) ~~These~~ The hardcopy version of these reports ~~are~~ is to be made available on an annual (four quarter) subscription basis for \$99 \$75. Requests for all or part of quarterly reports which are made on an ad hoc as opposed to subscription basis shall be filled at a charge of \$12-\$50 \$25 per quarter.

B) The diskette version of these reports is to be made available on an annual (four quarter) subscription basis for \$225. Requests for all or part of quarterly reports which are made on an ad hoc as opposed to subscription basis shall be filled at a charge of \$75 per quarter.

C) Only the Category III discount to the Office of the Governor and the General Assembly is to be applied to these products.

## 2) Seminars, Colloquia, and Other Meetings

In order to offset the costs of presenting informational programs to the public and to Council constituencies, the Council may

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charge a fee to participants covering the reasonable costs of presentation materials and equipment, guest presenters expenses, travel expenses of Council Staff, and meeting facilities. At the request of participants, the Council may also negotiate group rates for accommodations and amenities at such meetings and pass the cost and overhead along to participants in the fee charged for attendance.

- 3) DRG Analyst
- 34) All categorical and annual discounts shall apply to this product. Other Services and Products
- To the extent that the General Assembly appropriates to the Council from the Special Studies Revolving Fund moneys sufficient to perform other services and provide other products not conflicting with the intent of the Health Finance Reform Act and Administrative Rules, the Council may provide such products and services for a fee. The fees to be assessed shall be reasonable in view of the value of services performed, shall be collected by methods and procedures approved by the Executive Director, and shall cover the full cost of providing the goods and services.

(Source: Amended at 19 Ill. Reg. **1825**, effective  
FEB 06 1995)

## DEPARTMENT OF REHABILITATION SERVICES

## NOTICE OF ADOPTED AMENDMENTS

- 1) Heading of the Part: Assessment for Determining Eligibility and Rehabilitation Needs
- 2) Citation: 89 Ill. Adm. Code 553
- 3) Section Numbers: Adopted Action:
- |         |             |
|---------|-------------|
| 553.35  | New Section |
| 553.50  | Amendments  |
| 553.60  | Amendments  |
| 553.105 | New Section |
| 553.110 | Amendments  |
- 4) Statutory Authority: Implementing and authorized by Sections 3 (a), (b), and (k) of the Disabled Persons Rehabilitation Act (Ill. Rev. Stat. 1991, ch. 23, pars. 3434(a), (b), and (k)) [20 ILCS 2405/3(a), (b), and (k)].
- 5) Effective Date of Amendments: February 6, 1995
- 6) Does this rulemaking contain an automatic repeal date? No
- 7) Does this amendment contain incorporations by reference? No
- 8) Date Filed in Agency's Principal Office: February 6, 1995
- 9) Notice of Proposal Published in Illinois Register:  
August 26, 1994, 18 Ill. Reg. 13048
- 10) Has JCAR issued a Statement of Objections to these rules(s)? No
- 11) Difference(s) between proposal and final version: JCAR Technicals
- 12) Have all the changes agreed upon by the agency and JCAR been made as indicated in the agreement letter issued by JCAR? Yes
- 13) Will this rule replace an Emergency Rule(s) currently in effect? No
- 14) Are there any amendments pending on this Part? No
- 15) Summary and Purpose of Rule(s): New Section 553.35 adds new criteria on determining eligibility of non-U.S. Citizens. Amendments to Section 553.50 corrects an error in a citation in sub-section (a). Amendments to Section 553.60 clarify that, to be acceptable documentation for determination of eligibility, Special Education records must concern an individual who is currently receiving Special Education services, or has received such services within the last year. New Section 553.105 adds the requirement that after completion of the Comprehensive Assessment of



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Rehabilitation Needs, if the client does not have the necessary resources to be expected to complete his/her rehabilitation program, the rehabilitation counselor/instructor must assist the client in applying/obtaining any benefits for which the client is eligible which may provide the necessary support. Amendments to Section 553.110 clarify the provisions of the Comprehensive Assessment of Rehabilitation Needs Summary (Summary) and add sub-section (b) which clarifies the Summary must include statements concerning the severity of the individual's disability and eligibility based on the Order Selection.

- 16) Information and answers to question regarding this adopted rule shall be directed to:

Ms. Susan Warner, Acting Manager  
Regulations and Procedures Division  
Department of Rehabilitation Services  
P.O. Box 19429  
Springfield, Illinois 62794-9429  
217/785-3896  
TTY 217/785-9301

The full text of the Adopted Rule(s) begins on the next page:

## DEPARTMENT OF REHABILITATION SERVICES

## NOTICE OF ADOPTED AMENDMENTS

TITLE 89: SOCIAL SERVICES  
CHAPTER IV: DEPARTMENT OF REHABILITATION SERVICES  
SUBCHAPTER b: VOCATIONAL REHABILITATION

## PART 553

ASSESSMENT FOR DETERMINING ELIGIBILITY AND  
REHABILITATION NEEDS

Section	
553.10	General Applicability
553.20	Basis for the Determination of Eligibility
553.30	Presumption of Benefit from Vocational Rehabilitation Services
553.35	Services to Non-United States Citizens
553.40	Eligibility Determination Time Frames
553.50	Outcome of the Eligibility Determination
553.60	Documentation of Eligibility Factors/Preliminary Assessment
553.70	Certification of Eligibility
553.80	Extended Evaluation
553.90	Outcome of Extended Evaluation
553.100	Comprehensive Assessment of Rehabilitation Needs
553.105	Assistance in Attaining Necessary Financial Support
553.110	Outcome of the Comprehensive Assessment of Rehabilitation Needs
553.120	Change in Eligibility Status
553.130	Order of Selection
553.140	Criteria for Severe Disability

AUTHORITY: Implementing and authorized by Sections 3(a), (b), and (k) of the Disabled Persons Rehabilitation Act (Ill. Rev. Stat. 1991, ch. 23, pars. 3434(a), (b), and (k)) [20 ILCS 2405/3(a), (b), and (k)].

SOURCE: Emergency rules adopted at 17 Ill. Reg. 11657, effective July 1, 1993, for a maximum of 150 days; adopted at 17 Ill. Reg. 20346, effective November 15, 1993; amended at 18 Ill. Reg. 1834, effective

FEB 06 1995

## Section 553.35 Services to Non-United States Citizens

- a) DORS will not provide any services through its VR Program to any individual who is not a citizen of the United States who does not hold a proper visa or certification from the U.S. Immigration and Naturalization Services (INS) to allow him/her to be employed.
- b) DORS will provide services through its VR Program to an individual who is not a citizen of the United States provided that:
- 1) the individual holds a proper visa or certification from the INS to allow him/her to be employed while in the United States;
  - 2) all other eligibility criteria described in this Part are met; and
  - 3) the individual is expected to remain in the United States for a

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period of not less than 60 days after the completion of services listed on his/her IWRP (89 Ill. Adm. Code 572) and can be expected to be gainfully employed during this period.

(Source: Added at 18 Ill. Reg. 1834, effective FEB 06 1995)

**Section 553.50 Outcome of the Eligibility Determination**

Prior to the end of the eligibility determination period (i.e., 60 days), one of the following must occur:

- the client is determined to be eligible to receive VR services based on the criteria set forth in Section ~~at-09-III-Adm-Code-553-20~~ 553.20. A Certification of Eligibility (89 Ill. Adm. Code 553.60) shall be completed and the individual shall enter a Comprehensive Assessment of Rehabilitation Needs to the extent needed by the individual (89 Ill. Adm. Code 553.100);
- an extended evaluation is determined necessary. A Certification of Extended Evaluation shall be completed and such an evaluation shall begin;
- the client, because of lack of a disability which for that individual constitutes or results in a substantial impediment to employment, is determined to be ineligible to receive services. A Certification of Ineligibility shall be completed and the individual's case closed;
- the client's case is closed for reasons other than ineligibility (e.g., the client has refused services or further services from DORS, the client cannot be located); or
- the client's case is closed as he/she is determined ineligible to receive services due to the fact he/she does not meet the required criteria (see 89 Ill. Adm. Code 553.20).

(Source: Amended at 18 Ill. Reg. 1834, effective FEB 06 1995)

**Section 553.60 Documentation of Eligibility Factors/Preliminary Assessment**

Eligibility shall be assessed, to the maximum extent possible and practical, from existing medical and psychological records. Acceptable information for the purpose of verification of eligibility factors shall be:

- available medical records;
- available acceptable psychological or psychiatric records (see 89 Ill. Adm. Codes 553.120);
- verification of receipt of Supplemental Security Income awarded on the basis of disability;
- verification of receipt of Social Security Disability Income benefits awarded to the individual as a result of his/her disability;
- verification that the individual ~~white-in-school~~ received is receiving, or has within the last year received, services through a

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- special education program; or
- any other verification that the individual has been determined by another educational or governmental agency to be an individual with a disability. Additional medical, psychological and psychiatric information shall be obtained only when there is no existing information on which to base the determination of eligibility, or there is conflict between existing records, or when a counselor has reason to question whether the record accurately reflects the current medical or psychological condition.

(Source: Amended at 18 Ill. Reg. 1834, effective FEB 06 1995)

**Section 553.105 Assistance in Attaining Necessary Financial Support**

At the conclusion of the Comprehensive Assessment of Rehabilitation Needs, after the determination of a suitable vocational goal, if the client cannot be expected to be able to attain a successful employment outcome due to lack of financial resources and there are benefits for which the client can be expected to be eligible, the rehabilitation counselor/instructor must assist the client in making application for such benefits.

(Source: Added 18 Ill. Reg. 1834, effective FEB 06 1995)

**Section 553.110 Outcome of the Comprehensive Assessment of Rehabilitation Needs**

- When it is determined by the counselor that enough information has been gathered during the Comprehensive Assessment to adequately determine and plan the VR services necessary to ensure the individual a successful employment outcome in the area of his/her chosen employment goal, a Comprehensive Assessment Summary shall be completed by the counselor as part of the chronological record. The Comprehensive Assessment Summary shall identify, in detail, the specific impairments the individual has in obtaining his/her vocational goal, documentation of career counseling, consideration of the individual's unique strengths, resources, priorities, and interests needed to identify the nature and scope of services and the specific services that are expected to be necessary to assist the client in achieving his/her employment outcome.

- The Comprehensive Assessment Summary must also include a statement addressing the severity of the individual's disability(ies) and addressing the individual's eligibility based on the Order of Selection (pursuant to Section 553.140).

(Source: Amended 18 Ill. Reg. 1834, effective FEB 06 1995)

## DEPARTMENT OF REVENUE

## NOTICE OF ADOPTED AMENDMENTS

1) Heading of the Part: Income Tax

2) Code Citation: 86 Ill. Adm. Code 100

3) Section Numbers: Adopted Action:

100.2100	Amendment
100.2101	New Section
100.2110	New Section
100.2120	New Section
100.2130	New Section
100.2140	New Section
100.2160	New Section
100.2170	New Section
100.2180	New Section
100.2590	New Section
100.3120	Amendment
100.7010	Amendment
100.7200	Amendment
100.7300	Amendment

4) Statutory Authority: 35 ILCS 5/101 et seq.

5) Effective Date of Amendment(s): February 6, 1995

6) Do these rulemakings contain an automatic repeal date? No

7) Do these rulemakings contain incorporations by reference? Yes

8) Date Filed in Agency's Principal Office: February 6, 1995

9) Notice of Proposals Published in Illinois Register:

1) Issue #42, 10/21/94, 18 Ill. Reg. 15546 (100.2100, 100.2101, 100.2110) [Rulemaking #1]
2) Issue #41, 10/14/94, 18 Ill. Reg. 15388 (100.2120, 100.2130, 100.2140, 100.2160, 100.2170, 100.2180) [Rulemaking #2]
3) Issue #38, 9/23/94, 18 Ill. Reg. 14346 (100.2590, 100.3120, 100.7010) [Rulemaking #3]
4) Issue #40, 10/07/94, 18 Ill. Reg. 14878 (100.7200, 100.7300) [Rulemaking #4]

10) Has JC&R issued a Statement of Objections to these Amendments? No.

11) Differences between proposal and final version:

Rulemaking #1:

## DEPARTMENT OF REVENUE

## NOTICE OF ADOPTED AMENDMENTS

- 1) The Authority Note was amended by deleting "/101 et seq."
- 2) The first line of Section 100.2100(a) was amended by deletion of the word "section" and replacing it with the word "Section".
- 3) A comma was added between the words "year" and "as" in Section 100.2100(c).
- 4) The period after the second "500" in Section 100.2100(c)(2) was deleted.
- 5) The period after "502.5 in Section 100.2100(c)(2) was deleted and placed after the parenthetical containing "502.5".
- 6) The period after the word "employment" in Section 100.2100(c)(2) (line 300 of the first notice version of the rule) was deleted.
- 7) The semicolon after the word "taxpayer" in Section 100.2100(d)(2) (line 326 of the first notice version of the rule) was changed to a colon.
- 8) In Section 100.2100(d)(2)(C) (line 333 of the first notice version of the rule) "(d)(2)" was added before "(A)".
- 9) In Section 100.2100(e) (line 360 of the first notice version of the rule), the comma after the word property was stricken.
- 10) A period was inserted after the word "credit" in Section 100.2100(e)(3) (line 409 of the first notice version of the rule).
- 11) The comma after the word "of" in Section 100.2100(e)(3)(B) was stricken (line 431 of the first notice version of the rule).
- 12) The comma after the word "Illinois" was stricken in Section 100.2100(e)(4)(A) (line 446 of the first notice version of the rule).
- 13) The word "Sections" was deleted from Section 100.2100(e)(5)(A) (line 471 of the first notice version of the rule) and was replaced with the word "Section".
- 14) "B)" was underlined in Section 100.2100(e)(5)(B) (line 473 of the first notice version of the rule).
- 15) The semicolons found at lines 568 and 570 of the first notice deleted and were replaced with periods.
- 16) An extra space before the comma in Section 100.2101(c) (line 832 of the first notice version of the rule) was deleted.
- 17) The first period found at line 855 of the first notice version of the rule, Section 100.2101(c)(2) was deleted.
- 18) The period at the end of line 859 of the first notice version of the rule, Section 100.2101(c)(2), was deleted.
- 19) The period in line 865 of the first notice version of the rule that appears after the word "employment", Section 100.2101(c)(2), was deleted.
- 20) The comma that appears in line 894 of the first notice version of the rule, Section 100.2101(e), was deleted.
- 21) The comma that appears after the word "primarily" in line 895 of the first notice version of the rule, Section 100.2101(e), was deleted.



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- 22) A comma was added after the word "mining" in line 896 of the first notice version of the rule, Section 100.2101(e).
- 23) The semi-colon after the word "used" at line 897 of the first notice version of the rule, Section 100.2101(e) was changed to a comma.
- 24) The comma after the word "buildings" at line 905 of the first notice version of the rule, Section 100.2101(e)(1), was deleted.
- 25) The word "and" at line 906 of the first notice version of the rule, Section 100.2101(e)(1), was deleted.
- 26) A comma was added after "MACRS" at line 918 of the first notice version of the rule, Section 100.2101(e)(2)(A).
- 27) A comma was added after the word "credit" at line 946 of the first notice version of the rule, Section 100.2101(e)(3).
- 28) A comma was added after the word "credit" at line 954 of the first notice version of the rule, Section 100.2101(e)(4).
- 29) The word "availability" was replaced with the word "available" at line 962 of the first notice version of the rule, Section 100.2101(e)(3)(A).
- 30) A comma was added after the word "bookkeeping" at line 1052 of the first notice version of the rule, Section 100.2101(e)(8)(A).
- 31) The period after the word "qualify" was changed to a comma and the word "Because" was placed in lower case in line 1144 of the first notice version of the rule, Section 100.2101(e)(11)(B).
- 32) The word "sale" was changed to "sales" in line 1192 of the first notice version of the rule, Section 100.2101(f).
- 33) The word "or" was replaced with the word "after" at line 1217 of the first notice version of the rule, Section 100.2101(g).
- 34) A comma was deleted and the word "or" was added at line 1241 of the first notice version of the rule, Section 100.2101(g)(4).
- 35) A comma was substituted for a semicolon at line 1334 of the first notice version of the rule, Section 100.2110(e)(1)(C).
- 36) A period was substituted for the semicolon at line 1340 of the first notice version of the rule, Section 100.2110(e)(2).
- 37) The phrase "service regulation" at line 1353 of the first notice version of the rule, Section 100.2110(e)(2)(D) was replaced with the word "Code."
- 38) The semicolon at line 1357 of the first notice version of the rule, Section 100.2110(e)(3) was changed to a period.
- 39) The word "purchase" at line 1358 of the first notice version of the rule, Section 100.2110(e)(3)(A), was changed to lower case.
- 40) The word "Sections" at line 1361 of the first notice version of the rule, Section 100.2110(e)(3)(A)(i) was made singular.
- 41) The comma after the word "spouse" at line 1378 of the first notice version of the rule, Section 100.2110(e)(3)(B) was deleted.
- 42) The comma was deleted from line 1392 of the first notice version of the rule, Section 100.2110(e)(4)(A).
- 43) The word "and" was added before the word "while" at line 1393 of

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- 44) The first notice version of the rule, Section 100.2110(e)(4)(A). The first comma was deleted from line 1397 of the first notice version of the rule, Section 100.2110(e)(4)(A)(1).
- 45) A comma was added after the word "if" at line 1453 of the first notice version of the rule, Section 100.2110(g).
- 46) The word "the" was added before the word "taxpayer" at line 1468 of the first notice version of the rule, Section 100.2110(g)(1)(C).
- 47) The word "with" was changed to the word "within" at line 1469 of the first notice version of the rule, Section 100.2110(g)(1)(C).
- 48) Section 100.2101(f), beginning with the sentence starting at line 1166 of the first notice version of the rule was changed as follows in order to fix an inconsistency between the language of this Section as originally proposed and Example 1 of this subsection:  
 "The taxpayer must engage primarily in one or more of the operations. In other words, a taxpayer that is engaged 30% of the time in retailing and 40% of the time in manufacturing will not qualify for the credit because the taxpayer is not engaged primarily in one or more of the operations."
- 49) At line 893 of the first notice version of the rule, Section 100.2101(e) was amended to state, "In addition to the above requirements, property must be used in Illinois, by the taxpayer who is engaged primarily, in manufacturing, retailing, coal mining or fluorite mining in order to qualify for the IITA Section 201(f) credit against the replacement tax."
- 50) At line 903 of the first notice version of the rule, Section 100.2101(e)(1) was amended to conform the provision to the statutory citation upon which it is based. The first sentence of Section 100.2101(e)(1) is revised to state, "Tangible property, whether new or used, can consist of personalty or realty and includes, but is not limited to, buildings, component-parts and structural components of buildings, and signs that are real property, machinery, equipment and vehicles."

## Rulemaking #2:

- 1) At line 422 of the first notice version of the rule, Section 100.2130(e)(1)(C), the comma after the word "pay" was deleted.
- 2) At line 438 of the first notice version of the rule, Section 100.2130(e)(2)(C), the word "is" was substituted for the word "are".
- 3) At line 446 of the first notice version of the rule, Section 100.2130(e)(3)(A), a colon was substituted for a semicolon.
- 4) At line 466 of the first notice version of the rule, Section 100.2130(e)(3)(B), the comma after the word "spouse" was deleted.
- 5) At line 486 of the first notice version of the rule, Section 100.2130(f)(1), the word "in" was added before the word

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- "Illinois."
- 6) At line 503 of the first notice version of the rule, Section 100.2130(g)(1), the word "that" was placed in lower case.
  - 7) At line 516 of the first notice version of the rule, Section 100.2130(h)(1), the word "after" was substituted for the word "of".
  - 8) At line 767 of the first notice version of the rule, Section 100.2180(d), "A" was added after the word "Taxpayer".
  - 9) At line 770 of the first notice version of the rule, Section 100.2180(d), "Taxpayer A" was substituted for "taxpayer."
- Rulemaking #3:
- 1) Section 100.2590 was taken out of italics.
  - 2) Throughout the rulemaking we made the words "State" and "States" lower case.
  - 3) At line 332 of the first notice version of the rule, Section 100.3120(a), "/100 et seq." was deleted.
  - 4) At line 392 of the first notice version of the rule, Section 100.3120(a)(2)(B) the word "above" was replaced with "of this Part."
  - 5) At line 393 of the first notice version of the rule, Section 100.3120(a)(2)(B), the word "below" was deleted.
  - 6) At line 394 of the first notice version of the rule, Section 100.3120(a)(2)(B), the language originally proposed for deletion "of this Part" was restored.
  - 7) At line 506 of the first notice version of the rule, Section 100.3120(c)(3)(A), the word "the" was added after the word "of".
  - 8) At line 516 of the first notice version of the rule, Section 100.3120(c)(3)(B), the comma was deleted.
  - 9) At lines 612 and 613 of the first notice version of the rule, Section 100.7010(a)(1) "/100 et seq." was stricken.
  - 10) At line 969 of the first notice version of the rule, Section 100.7010(f)(2), the word "railroad" was changed to "railroads".
  - 11) At line 970 of the first notice version of the rule, Section 100.7010(f)(2), the word "above" was replaced with "of this Part".

## Rulemaking #4:

- 1) At line 261 of the first notice version of the rule, Section 100.7200(b), the phrase "W-2g or 1099-R" was deleted.
- 2) At line 305 of the first notice version of the rule, Section 100.7200(f), the comma was deleted.
- 3) At line 340 of the first notice version of the rule, Section 100.7300(b)(1), the word "of" was replaced with the word "after."
- 4) At line 375 of the first notice version of the rule, Section 100.7300(b)(2), a comma was added after the word "and."

## DEPARTMENT OF REVENUE

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- 5) At line 376 of the first notice version of the rule, Section 100.7300(b)(2), a comma was added after the word "requests."
  - 6) At line 377 of the first notice version of the rule, Section 100.7300(b)(2), the word "of" was replaced with the word "after."
  - 7) At line 389 of the first notice version of the rule, Section 100.7300(b)(3)(A), the comma was deleted.
  - 8) At line 408 of the first notice version of the rule, Section 100.7300(c), the added comma was deleted.
  - 9) At line 415 of the first notice version of the rule, Section 100.7300(c), "750" was added after "Code."
- 12) Have all the changes agreed upon by the agency and JCAR been made as indicated in the agreement letters issued by JCAR? Yes.
- 13) Will these amendments replace an emergency amendment currently in effect? No.
- 14) Are there any amendments pending on this Part? Yes.

## Section Numbers

## Proposed Action

## Ill. Reg. Citation

100.2470

Amendment

18 Ill. Reg. 9377, 6/24/94

- 15) Summary and Purpose of Amendment(s): Rulemaking #1 amends existing Section 100.2100 which at present sets forth the Department's rules on the Replacement Tax Investment Credit and the Investment Credit for Enterprise Zones. The Department decided that it would enhance the clarity of its rules, if rules concerning each credit is contained in a separate Section of Part 100. In addition, P.A. 88-141 amended the Replacement Tax Investment Credit effective January 1, 1994. The focus of the credit was shifted as a result of this statutory change. Rulemaking #1 contains two rules concerning the Replacement Tax Investment Credit. Section 100.2100 sets forth the rule in effect for periods prior to January 1, 1994. Section 100.2101 sets forth the rule for periods commencing with January 1, 1994.

Rulemaking #2 sets forth detailed rules concerning various credits available to taxpayers under the Illinois Income Tax Act. Included in this rulemaking are proposed rules concerning the jobs tax credit for Enterprise Zones and Foreign Trade Zones and Sub-zones (IITA Section 201(g)), the High Impact Business Investment Credit (IITA Section 201(h)), the credit against income tax for replacement tax (IITA Section 201(i)) and the research and development credit (IITA Section 201(k)).

Rulemaking #3 sets forth the effect of federal laws on the ability of the State of Illinois to subject certain employees of railroads, motor carriers and air carriers to Illinois income taxation. In addition, this rulemaking points out that federal law provides that the State of Illinois

DEPARTMENT OF REVENUE

NOTICE OF ADOPTED AMENDMENTS

may not require the withholding of Illinois income taxes from wages of certain employees of water carriers. This rulemaking also proposes amendment of existing rules concerning the allocation of compensation paid to nonresidents and income tax withholding rules to state these policies.

Rulemaking #4 is in response to a suggestion of the Governor's Commission on Regulatory Review that employers no longer be required to routinely submit copies of employee W-2s to the Department when they file their IL-W-3 Annual Reconciliation Statement. This rulemaking implements this suggestion.

16) Information and questions regarding this adopted amendment shall be directed to:

Keith Staats  
Senior Counsel - Income Tax  
Office of General Counsel  
Illinois Department of Revenue  
101 West Jefferson  
Springfield, Illinois 62794  
(217) 782-6336

The full text of the Adopted Amendments begins on the next page:

DEPARTMENT OF REVENUE

NOTICE OF ADOPTED AMENDMENTS

TITLE 86: REVENUE  
CHAPTER I: DEPARTMENT OF REVENUE  
PART 100  
INCOME TAX

SUBPART A: TAX IMPOSED

Section

100.2000

100.2050

Introduction

Net Income (IITA Section 202)

SUBPART B: CREDITS

Section

100.2100

100.2101

100.2110

100.2120

100.2130

100.2140

100.2150

100.2170

100.2180

Replacement Tax Investment Credit Prior to January 1, 1994 (IITA 201(e))

Replacement Tax Investment Credit (IITA 201(e))

Investment Credit; Enterprise Zone (IITA 201(f))

Jobs Tax Credit; Enterprise Zone and Foreign Trade Zone or Sub-Zone (IITA 201(g))

Investment Credit; High Impact Business (IITA 201(h))

Credit Against Income Tax for Replacement Tax (IITA 201(i))

Research and Development Credit (IITA 201(k))

Tax Credits for Coal Research and Coal Utilization Equipment (IITA 206)

Credit for Residential Real Property Taxes (IITA 208)

SUBPART C: NET OPERATING LOSSES OF UNITARY BUSINESS GROUPS

OCCURRING PRIOR TO DECEMBER 31, 1986

Section

100.2200

100.2210

100.2220

100.2230

100.2240

Net Operating Losses Occurring Prior to December 31, 1986, of Unitary Business Groups: Treatment by Members of the Unitary Business Group (IITA Section 202) - Scope

Net Operating Losses Occurring Prior to December 31, 1986, of Unitary Business Groups: Treatment by Members of the Unitary Business Group: (IITA Section 202) - Definitions

Net Operating Losses Occurring Prior to December 31, 1986, of Unitary Business Groups: Treatment by Members of the Unitary Business Group: (IITA Section 202) - Current Net Operating Losses: Offsets Between Members

Net Operating Losses Occurring Prior to December 31, 1986, of Unitary Business Groups: Treatment by Members of the Unitary Business Group: (IITA Section 202) - Carrybacks and Carryforwards

Net Operating Losses Occurring Prior to December 31, 1986, of Unitary Business Groups: Treatment by Members of the Unitary Business Group: (IITA Section 202) - Effect of Combined Net



## DEPARTMENT OF REVENUE

## NOTICE OF ADOPTED AMENDMENTS

100.2250 Operating Loss in Computing Illinois Base Income  
 Net Operating Losses Occurring Prior to December 31, 1986, of  
 Unitary Business Groups: Treatment by Members of the Unitary  
 Business Group: (IITA Section 202) - Deadline for Filing Claims  
 Based on Net Operating Losses Carried Back From a Combined  
 Apportionment Year

SUBPART D: ILLINOIS NET LOSS DEDUCTIONS OCCURRING ON OR AFTER  
 DECEMBER 31, 1986

Section  
 100.2300 Illinois Net Loss Deductions for Losses Occurring On or After  
 December 31, 1986  
 100.2310 Computation of the Illinois Net Loss Deduction  
 100.2320 Determination of the Amount of Illinois Net Loss Carryovers  
 100.2330 Illinois Net Loss Carrybacks and Net Loss Carryovers  
 100.2340 Illinois Net Loss Deductions of Corporations That are Members of a  
 Unitary Business Group: Separate Unitary Versus Combined Unitary  
 Returns  
 100.2350 Illinois Net Loss Deductions of Corporations that are Members of a  
 Unitary Business Group: Changes in Membership

SUBPART E: ADDITIONS TO AND SUBTRACTIONS FROM TAXABLE INCOME OF INDIVIDUALS,  
 CORPORATIONS, TRUSTS AND ESTATES AND PARTNERSHIPS

Section  
 100.2470 Subtraction of Amounts Exempt from Taxation by Virtue of Illinois  
 Law, the Illinois or U.S. Constitutions, or by Reason of U.S.  
 Treaties or Statutes (IITA Sections 203(a)(2)(N), 203(b)(2)(J),  
 203(c)(2)(K) and 203(d)(2)(G))

SUBPART F: BASE INCOME OF INDIVIDUALS

Section  
 100.2590 Taxation of Certain Employees of Railroads, Motor Carriers, Air  
 Carriers and Water Carriers

SUBPART G: BASE INCOME OF TRUSTS AND ESTATES

Section  
 100.2680 Capital Gain Income of Estates and Trusts Paid to or Permanently Set  
 Aside for Charity

SUBPART I: GENERAL RULES OF ALLOCATION AND APPORTIONMENT OF  
 BASE INCOME

Section

## DEPARTMENT OF REVENUE

## NOTICE OF ADOPTED AMENDMENTS

100.3000 Terms Used in Article 3 (IITA Section 301)  
 100.3010 Business and Nonbusiness Income (IITA Section 301)  
 100.3020 Resident (IITA Section 301)

SUBPART J: COMPENSATION PAID TO NONRESIDENTS

Section  
 100.3100 Compensation (IITA Section 302)  
 100.3110 State (IITA Section 302)  
 100.3120 Allocation of Compensation Paid to Non-Residents Nonresidents (IITA  
 Section 302)

SUBPART K: NON-BUSINESS INCOME OF PERSONS OTHER THAN RESIDENTS

Section  
 100.3200 Taxability in Other State (IITA Section 303)  
 100.3210 Commercial Domicile (IITA Section 303)  
 100.3220 Allocation of Certain Items of Nonbusiness Income by Persons Other  
 than Residents (IITA Section 303)

SUBPART L: BUSINESS INCOME OF PERSONS OTHER THAN RESIDENTS

Section  
 100.3300 Allocation and Apportionment of Base Income (IITA Section 304)  
 100.3310 Business Income of Persons Other Than Residents (IITA Section 304) -  
 In General  
 100.3320 Business Income of Persons Other Than Residents (IITA Section 304) -  
 Apportionment  
 100.3330 Business Income of Persons Other Than Residents (IITA Section 304) -  
 Allocation  
 100.3340 Business Income of Persons Other Than Residents (IITA Section 304)  
 100.3350 Property Factor (IITA Section 304)  
 100.3360 Payroll Factor (IITA Section 304)  
 100.3370 Sales Factor (IITA Section 304)  
 100.3380 Special Rules (IITA Section 304)  
 100.3390 Petitions for Alternative Allocation or Apportionment (IITA Section  
 304(f))  
 100.3400 Allocation of Compensation Paid to Nonresidents (IITA Section 302)

SUBPART N: TIME AND PLACE FOR FILING RETURNS

Section  
 100.5000 Time for Filing Returns: Individuals (IITA Section 505)  
 100.5010 Place for Filing Returns: All Taxpayers (IITA Section 505)

## DEPARTMENT OF REVENUE

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100.5020 Extensions of Time for Filing Returns: All Taxpayers (IITA Section 505)  
 100.5030 Taxpayer's Notification to the Department of Certain Federal Changes Arising in Federal Consolidated Return Years, and Arising in Certain Loss Carryback Years (IITA Section 506)

## SUBPART O: COMPOSITE RETURNS

Section  
 100.5100 Composite Returns: Eligibility  
 100.5110 Composite Returns: Responsibilities of Authorized Agent  
 100.5120 Composite Returns: Individual Liability  
 100.5130 Composite Returns: Required forms and computation of Income  
 100.5140 Composite Returns: Estimated Payments  
 100.5150 Composite Returns: Tax, Penalties and Interest  
 100.5160 Composite Returns: Credit for Resident Individuals  
 100.5170 Composite Returns: Definition of a "Lloyd's Plan of Operation"

## SUBPART P: COMBINED RETURNS

Section  
 100.5200 Election to File a Combined Return  
 100.5210 Procedure for Making the Election  
 100.5220 Designated Agent for the Members  
 100.5230 Combined Estimated Tax Payments  
 100.5240 Claims for Credit of Overpayments  
 100.5250 Liability for Combined Tax, Penalty and Interest  
 100.5260 Combined Amended Returns  
 100.5270 Computation of Combined Income and Tax  
 100.5280 Definitions and Miscellaneous Provisions Relating to Combined Returns

## SUBPART Q: REQUIREMENT AND AMOUNT OF WITHHOLDING

Section  
 100.7000 Requirement of Withholding (IITA Section 701)  
 100.7010 Compensation Paid in this State (IITA Section 701)  
 100.7020 Transacting Business Within this State (IITA Section 701)  
 100.7030 Payments to Residents (IITA Section 701)  
 100.7040 Employer Registration (IITA Section 701)  
 100.7050 Computation of Amount Withheld (IITA Section 701)  
 100.7060 Additional Withholding (IITA Section 701)  
 100.7070 Voluntary Withholding (IITA Section 701)  
 100.7080 Correction of Underwithholding or Overwithholding (IITA Section 701)  
 100.7090 Reciprocal Agreement (IITA Section 701)

## DEPARTMENT OF REVENUE

## NOTICE OF ADOPTED AMENDMENTS

100.7095 Cross References

## SUBPART R: AMOUNT EXEMPT FROM WITHHOLDING

Section  
 100.7100 Withholding Exemption (IITA Section 702)  
 100.7110 Withholding Exemption Certificate (IITA Section 702)  
 100.7120 Exempt Withholding Under Reciprocal Agreements (IITA Section 702)

## SUBPART S: INFORMATION STATEMENT

Section  
 100.7200 Reports for Employee (IITA Section 703)

## SUBPART T: EMPLOYER'S RETURN AND PAYMENT OF TAX WITHHELD

Section  
 100.7300 Returns of Income Withheld from Wages (IITA Section 704)  
 100.7310 Quarterly Returns Filed on an Annual Basis (IITA Section 704)  
 100.7320 Time for Filing Returns (IITA Section 704)  
 100.7330 Payment of Tax Deducted and Withheld (IITA Section 704)  
 100.7340 Correction of Underwithholding or Overwithholding (IITA Section 704)

## SUBPART U: COLLECTION AUTHORITY

Section  
 100.9000 General Income Tax Procedures (IITA Section 901)  
 100.9010 Collection Authority (IITA Section 901)

## SUBPART V: NOTICE AND DEMAND

Section  
 100.9100 Notice and Demand (IITA Section 902)

## SUBPART W: ASSESSMENT

Section  
 100.9200 Assessment (IITA Section 903)  
 100.9210 Waiver of Restrictions on Assessments (IITA Section 907)

## DEPARTMENT OF REVENUE

## NOTICE OF ADOPTED AMENDMENTS

## SUBPART X: DEFICIENCIES AND OVERPAYMENTS

Section  
100.9300 Deficiencies and Overpayments (IITA Section 904)  
100.9310 Application of Tax Payments Within Unitary Business Groups (IITA Section 603)  
100.9320 Limitations on Notices of Deficiency (IITA Section 905)  
100.9330 Further Notices of Deficiency Restricted (IITA Section 906)

## SUBPART Y: CREDITS AND REFUNDS

Section  
100.9400 Credits and Refunds (IITA Section 909)  
100.9410 Limitations on Claims for Refund (IITA Section 911)  
100.9420 Recovery of Erroneous Refund (IITA Section 912)

## SUBPART Z: INVESTIGATIONS AND HEARINGS

Section  
100.9500 Access to Books and Records (IITA Section 913)  
100.9510 Taxpayer Representation and Practice Requirements  
100.9520 Conduct of Investigations and Hearings

## SUBPART AA: JUDICIAL REVIEW

Section  
100.9600 Administrative Review Law (IITA Section 1201)

## SUBPART BB: DEFINITIONS

Section  
100.9700 Unitary Business Group Defined (IITA Section 1501)

## SUBPART CC: LETTER RULING PROCEDURES

Section  
100.9800 Letter Ruling Procedures

APPENDIX A Business Income Of Persons Other Than Residents  
TABLE A Example of Unitary Business Apportionment  
TABLE B Example of Unitary Business Apportionment for Groups Which Include Members Using Three-Factor and Single-Factor Formulas

## DEPARTMENT OF REVENUE

## NOTICE OF ADOPTED AMENDMENTS

AUTHORITY: Implementing the Illinois Income Tax Act [35 ILCS 5] and authorized by Section 1401 of the Illinois Income Tax Act [35 ILCS 5/1401].

SOURCE: Filed July 14, 1971, effective July 24, 1971; amended at 2 Ill. Reg. 49 p. 84, effective November 29, 1978; amended at 5 Ill. Reg. 813, effective January 7, 1981; amended at 5 Ill. Reg. 4617, effective April 14, 1981; amended at 5 Ill. Reg. 4642, effective April 14, 1981; amended at 5 Ill. Reg. 5537, effective May 7, 1981; amended at 5 Ill. Reg. 5705, effective May 20, 1981; amended at 5 Ill. Reg. 5883, effective May 20, 1981; amended at 5 Ill. Reg. 6843, effective June 16, 1981; amended at 5 Ill. Reg. 13244, effective November 13, 1981; amended at 5 Ill. Reg. 13724, effective November 30, 1981; amended at 6 Ill. Reg. 579, effective December 29, 1981; amended at 6 Ill. Reg. 9701, effective July 26, 1982; amended at 7 Ill. Reg. 399, effective December 28, 1982; codified at 8 Ill. Reg. 19574; amended at 9 Ill. Reg. 16986, effective October 21, 1985; amended at 9 Ill. Reg. 685, effective December 31, 1985; amended at 10 Ill. Reg. 7913, effective April 28, 1986; amended at 10 Ill. Reg. 19512, effective November 3, 1986; amended at 10 Ill. Reg. 21941, effective December 15, 1986; amended at 11 Ill. Reg. 831, effective December 24, 1986; amended at 11 Ill. Reg. 2450, effective January 20, 1987; amended at 11 Ill. Reg. 12410, effective July 8, 1987; amended at 11 Ill. Reg. 17782, effective October 16, 1987; amended at 12 Ill. Reg. 4865, effective February 25, 1988; amended at 12 Ill. Reg. 6748, effective March 25, 1988; amended at 12 Ill. Reg. 11766, effective July 1, 1988; amended at 12 Ill. Reg. 14307, effective August 29, 1988; amended at 13 Ill. Reg. 8917, effective May 30, 1989; amended at 13 Ill. Reg. 10952, effective June 26, 1989; amended at 14 Ill. Reg. 4558, effective March 8, 1990; amended at 14 Ill. Reg. 6810, effective April 19, 1990; amended at 14 Ill. Reg. 10082, effective June 7, 1990; amended at 14 Ill. Reg. 16012, effective September 17, 1990; emergency amendment at 17 Ill. Reg. 473, effective December 22, 1992, for a maximum of 150 days; amended at 17 Ill. Reg. 8869, effective June 2, 1993; amended at 17 Ill. Reg. 13776, effective August 9, 1993; recodified at 17 Ill. Reg. 14189; amended at 17 Ill. Reg. 19632, effective November 1, 1993; amended at 17 Ill. Reg. 19966, effective November 9, 1993; amended at 18 Ill. Reg. 1510, effective January 13, 1994; amended at 18 Ill. Reg. 2494, effective January 28, 1994; amended at 18 Ill. Reg. 7768, effective May 4, 1994; amended at 19 Ill. Reg. 1839, effective FEB 06 1995.

## SUBPART B: CREDITS

Section 100.2100 Replacement Tax Investment Credit Prior to January 1, 1994 (IITA 201(e))

- a) Scope of this section Section. Hereinafter, unless specifically provided otherwise the term "investment credit" shall include refers to both the credit against the Personal Property Tax Replacement Income Tax provided by IITA Section 201(f)(e) and the credit against the income tax provided by IITA Section 201(f)(e) and the credit against the income tax provided by IITA Section 201(f)(e).
- b) In general. Any person subject to the Personal Property Tax



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Replacement-income-tax-is A taxpayer shall be allowed a credit equal to against--this--tax--in--the-amount-of .5% of the adjusted basis of qualified property placed in service in-illinois during the taxable year. provided such property is placed in service on-or after July 1, 1984 June-30,--1984--and--before--January--17,--1990 (ITA Section 201(e)(1)).

c) There shall be allowed an additional credit equal to against-the-replacement-tax-of .5% of the adjusted basis of such qualified property placed in service during the taxable year provided such property is placed in service on or in-illinois after July 1, 1986 June-30,--1986,--is--also--allowed--provided and the taxpayer's base employment within in Illinois has increased by at-least 1% or more over the preceding preceding year as determined by the taxpayer's employment records filed with the Illinois Department of Employment Security. If, in any year, the increase growth in base employment over the preceding preceding year is less than 1%, the additional credit shall be limited to that percentage times a fraction, the numerator of which is .5% and the denominator of which is 1%, but shall not exceed .5% is--accordingly-reduced (ITA Section 201(e)(1)). Any--person--subject-to-the-income-tax-imposed-by-ITA--Section-201(a) and--(b)--is--allowed--a-credit-against-this--tax--in--the-amount--of--5% of-the-basis-of-qualified-property--placed-in-service-in-an-Enterprise zone--during--the-taxable--year--provided--that--such-property-is placed-in-service-after-June-30,--1987,--but--not--before--the--enterprise-zone--certification--date.

1) Base employment. For purposes of calculating the additional investment credit, base employment in Illinois is defined as the average monthly total of individuals employed in Illinois by a taxpayer during the taxable year. To calculate base employment for a particular taxable year, the taxpayer need only total the number of individuals he employed in Illinois during each month of the taxable year as reported to the Illinois Department of Employment Security on Line 1 of Form UC-3/40 and divide this total by the number of months in the taxable year.

2) Example of the Additional Investment Credit Computation. During the calendar year 1991, Corporation A reported 500 employees each month on Line 1 of Form UC-3/40. Therefore, Corporation A's base employment in Illinois for 1991 was 500 ((500 x 12)/12 = 500). In 1992, Corporation A reported 500 employees for each of the first six months, and 505 employees for each of the remaining six months of the taxable year. Therefore, Corporation A's base employment for 1992 was 502.5 ((500 x 6) + (505 x 6)/12 = 502.5). Corporation A's percentage of increase in 1992 base employment over 1991 base employment is .5%. This figure is computed by subtracting the 1991 base employment from the 1992 base employment and dividing the remainder by the 1991 base employment ((502.5 - 500)/500 = .005 or .5%). Corporation A will be allowed an additional investment credit for 1992 of .25%

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(one-half the percentage of increase) times the adjusted basis of qualified property placed in service in Illinois during the taxable year and on or after July 1986.

d) The ITA--Section--201(g) investment credit is not allowed to the extent it would decrease the taxpayer's replacement tax liability for the taxable year to less than zero, nor may any credit for qualified property be allowed for any year other than the year in which the property was placed in service in Illinois. A--carryforward-of--the-Section--201(g)-credit--is--allowed--in--limited--circumstances--if--a-taxpayer--fails--the--requirements--of--P.A.--84-165-prior-to--July-17--1986--the--ITA--Section--201(h)--investment-credit--is--not-allowed--to--the--extent--it--would--decrease--the-taxpayer's--income--tax-liability--for--the-taxable--year--to--less-than-zero.

1) No carryback or carryforward of unused credit is allowed for tax years ending prior to December 31, 1985.

2) For tax years ending on or after December 31, 1987, and on or before December 31, 1988, the credit shall be allowed for the tax year in which the property is placed in service, or, if the amount of the credit exceeds the tax liability for that year, whether it exceeds the original liability or the liability as later amended, such excess may be carried forward and applied to the tax liability of the 5 taxable years following the excess credit years if the taxpayer:

A) makes investments which cause the creation of a minimum of 2,000 full-time equivalent jobs in Illinois.

B) is located in an enterprise zone established pursuant to the Illinois Enterprise Zone Act, and

C) is certified by the Department of Commerce and Community Affairs as complying with the requirements specified in Subsections (d)(2)(A) and (B) above, by July 1, 1986 (ITA Section 203(e)(1)).

3) For tax years ending on-or after December 31, 1988 1985, the credit shall be allowed for the tax year in which the property is placed in service, or, if the amount of the credit exceeds the tax liability for that year, whether it exceeds the original liability or the liability as later amended, such excess may be carried forward and applied to the tax liability of the 5 taxable years following the excess credit year. The credit shall be applied to the earliest year for which there is a liability. If there is credit from more than one tax year that is available to offset a liability, the earlier credit accruing-first-in-time shall be applied first.

e) Qualified property. In order to qualify for the investment credit, property must be tangible; depreciable pursuant to Internal Revenue Code Section 167, except that "3-year property" as defined in IRC Section 168(c)(2)(A) is not eligible; and acquired by purchase as defined in Internal Revenue Code Section 179(d). In addition to the above requirements, property must be used in Illinois, by the

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taxpayer, in manufacturing, retailing, coal mining or fluoroite mining in order to qualify for the IITA Section 201(g) credit against the replacement tax. ~~to qualify for the IITA Section 201(h) credit against the income tax property must be used by the taxpayer in an Illinois Enterprise Zone but such use is not limited to manufacturing, retailing, coal mining and fluoroite mining.~~ Qualified property, ~~whether for the IITA Section 201(g) or 201(h) credit~~ can be new or used; but cannot have been previously used in Illinois, in such a manner and by such a person as would qualify for the investment credit, or for the Section 201(f) Enterprise Zone Investment Credit ~~provided by IITA Section 201(g) or 201(h), and includes buildings and structural components thereof.~~

1) Tangible property. Tangible property can consist of personalty or realty and includes, but is not limited to, buildings, component parts of buildings, machinery, equipment, and vehicles. Certain property, though tangible in nature, does not qualify as investment credit property because it is not depreciable.

2) Depreciable. In order to qualify for the investment credit, property must also be depreciable pursuant to ~~Internal Revenue Code IRC Section 167. Internal Revenue Code IRC Section 167 provides that depreciable property is property used in the taxpayer's trade or business or held for the production of income which is subject to wear and tear, exhaustion, or obsolescence.~~

A) Property which is depreciated under the Modified Accelerated Cost Recovery System (MACRS) as provided by ~~Internal Revenue Code IRC Section 168~~, is considered depreciable pursuant to ~~Internal Revenue Code IRC Section 167~~ for purposes of the investment credit. Property assigned to a MACRS class of less than 4 years does not qualify for the investment credit.

B) Examples of tangible property which is not depreciable are land, inventories or stock in trade, natural resources, and coin or currency.

C) The provisions of IRS Regulation Section 1.167(a)-4 shall govern in determining whether leasehold improvements are depreciable.

D) IRC Section 179 allows taxpayers, under certain circumstances, to expense up to \$10,000 of equipment purchased in a single tax year. Based on this provision, if the total cost of the property was \$10,000 or less, the taxpayer has the option of expensing the cost all in one year as a depreciation expense. While the property does have a useful life of four or more years, since the election was made to completely expense the cost of the property in one year, the property has no federal depreciable basis and does not have a basis upon which to compute the Illinois investment tax credit. Property not fully expensed under

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Section 179 would qualify for the credit based on the cost of the depreciable property reduced by the Section 179 deduction.

3) Placed in service. For purposes of the Illinois investment credit, "placed in service" has the same meaning as under IRC Section 46 of the Internal Revenue Code. Property will be considered to have been placed in service in the same taxable year in which it is taken into account in determining the federal investment tax credit. See IRS Regulation Section 1.46-3(d).

A) Even though property is placed in service in the same taxable year in which it is taken into account in determining the Federal investment tax credit only property placed in service in Illinois after June 30, 1984 and before January 1, 1997 ~~1999~~ can qualify for consideration in determining the ~~IITA Section 201(g) credit~~ against the replacement tax. ~~Similarly, only property placed in service after June 30, 1984 and after the date of certification of the enterprise zone can qualify for the Section 201(h) credit.~~ Qualifying property shall be considered placed in service in Illinois ~~for an enterprise zone~~ on the date on which the property is placed in a condition or state of readiness and availability for a specifically assigned function. See IRS Reg. Section 1.46-3(d)(2).

B) Property which is disposed of ~~moved out of Illinois~~ moved out of the enterprise zone ~~in the case of the IITA Section 201(g) credit against the replacement tax~~ or which ceases to qualify for any other reason during the same taxable year it was placed in service in Illinois or the enterprise zone will not be considered in computing the investment credit for the taxable year.

4) Adjusted basis. The basis of qualified property for purposes of the investment credit is the property's basis used to compute the depreciation deduction for federal income tax purposes.

A) In computing the amount of investment credit available for a taxable year, the proper investment credit rate will be applied to the total basis of all qualified property placed in service in Illinois ~~or the enterprise zone~~ during the taxable year, provided the property continues to qualify on the last day of the taxable year.

B) If the basis of property placed in service during a taxable year is increased or decreased during the same taxable year, the increased or decreased basis will be used to compute the investment credit for the taxable year.

5) Acquired by purchase. In order to qualify for the investment credit, the property must have been acquired by purchase as defined in IRC Section 179(d) of the Internal Revenue Code.



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For purposes of determining whether property is acquired by purchase as defined by IRC Section 179(d), the family of an individual includes only his spouse, ancestors and lineal descendants. Also, for these purposes only, a controlled group has the same meaning as in IRC Section 1363(a), except stock ownership of only 50% or more is required. See Regulation Section 1.179-4 under the Internal Revenue Code. Property which the taxpayer constructs, reconstructs or erects itself is generally considered acquired by purchase. IRC Section 179 which defines purchase as any acquisition of property except:

- A) an acquisition from a person whose relationship to the acquiring person is such that a resulting loss would be disallowed under IRC Section 267 or 707(b) or the Internal Revenue Code;
  - B) an acquisition by one component member of a controlled group from another component member of the group; an acquisition of property, if the basis of the property in the hands of the person acquiring it is determined in whole or in part by its adjusted basis in the hands of the person from whom the property was acquired; or
  - C) an acquisition of property, the basis of which is determined under IRC Section 1014(a) of the Internal Revenue Code. IRC Section 1014(a) covers property acquired from a decedent. Property acquired by bequest or demise is not acquired by purchase. For purposes of determining whether property is acquired by purchase, as defined, the family of an individual includes only his spouse, ancestors and lineal descendants. Also, for these purposes only, a controlled group has the same meaning as in Section 1363(a) of the Internal Revenue Code, except stock ownership of only 50% or more is required. See Regulation Section 1.179-4 under the Internal Revenue Code. Property which the taxpayer constructs, reconstructs or erects itself is generally considered acquired by purchase.
- 6) Used in Illinois. Mobile property such as vehicles must be used predominantly in Illinois, or in the enterprise zone for purposes of the Section 2011(b) credit, removal of such property from Illinois or the enterprise zone for a temporary and transitory purpose will not disqualify the property so long as it continues to be used predominantly in the Illinois enterprise zone operation of the taxpayer. For purposes of this Section, mobile property is considered to be predominantly used in Illinois for in an enterprise zone if usage in Illinois for the enterprise zone exceeds usage outside of Illinois for the enterprise zone. Example. A retailer sometimes uses its trucks based in Illinois to deliver goods both in Illinois and to out-of-State buyers. Such

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temporary absence of its trucks from Illinois does not disqualify them.

- 7) Manufacturing, retailing, coal or fluorite mining. In general, in order to qualify for the 179A-Section-201(g) investment credit against the replacement tax, property must be used in Illinois by the taxpayer exclusively in manufacturing operations, retailing, coal mining, or fluorite mining. See subsection (d) of this regulation for the method of apportioning the cost of a building or structural component thereof when a portion of such building or structural component is used in a non-qualifying operation. A lessor of otherwise qualifying property, which property is used by the lessee in manufacturing, retailing, or coal or fluorite mining operations, would not qualify for the Section-201(g) credit because the property is not used "by the taxpayer".

- 8) Manufacturing operations. "Manufacturing operations" is defined in IITA Section 201(g)(e)(3) as the material staging and production of tangible personal property by procedures commonly regarded as manufacturing, processing, fabrication or assembling which changes some existing material into new shapes, new qualities, or new combinations. It is not necessary that such procedures result in a finished consumer product, however, such procedures must change some existing material into new shapes, new qualities or new combinations. Procedures commonly regarded as manufacturing, processing, fabrication or assembling are those so regarded by the general public. The use of otherwise qualifying property in any industrial, commercial or business activity which may be distinguished from manufacturing, processing, fabrication or assembling will not be considered a manufacturing operation for purposes of the Section 201(g) credit. For example, a building constructed to house the administrative services division of a manufacturing company would not be used for manufacturing operations and would not qualify for the Section 201(g) credit. By way of further example, otherwise qualifying property used in the following operations will not qualify for the Section-201(g) investment credit because the activities described are generally not considered manufacturing operations:

- A) Agricultural activities such as cultivating the soil; raising or harvesting crops; the production of seed or seedlings; and the development of hybrid seeds, plants, or shoots are not manufacturing operations. The raising or breeding of livestock, poultry, fish or any other animals, as well as commercial fishing or beekeeping is not manufacturing.
- B) Manufacturing operations do not include mining; quarrying; logging; drilling for oil, gas or water; or any other operations which result in the extraction or



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procurement of a natural resource. However, the refining or processing of such natural resources into a product of a different form or a product which has different qualities is manufacturing.

- C) Persons engaged in the construction, reconstruction, alteration, remodeling, or improvement of real estate are not considered engaged in manufacturing operations.
- D) Manufacturing operations do not include research and development of new products or production techniques.
- E) Manufacturing operations do not include the use of machinery or equipment in managerial or other non-production, non-operational activities including disposal of waste, scrap or residue, inventory control, production scheduling, work routing, purchasing, receiving, accounting, fiscal management, general communications, plant security, or personnel recruitment, selection or training.

9) Retailing. Retailing is defined as the sale of tangible personal property or services rendered in conjunction with the sale of tangible consumer goods or commodities (ITFA Section 203(e)(3)). It is not required that such tangible personal property be finished consumer goods, or that the property be sold to its ultimate consumer. For example, sales of tangible personal property for resale are included in the definition of retailing. Also included in the definition of retailing for these purposes are any services rendered in conjunction with the sale of tangible consumer goods or commodities such as uncrating, cleaning, assembling, delivery or installation, provided such services are in conjunction with a specific sale. For example, a delivery truck would qualify for the Section 201(g) credit as it is used in conjunction with specific sales but a company jet used by the president of the company for general or personal purposes would not. Similarly, equipment used by the payroll division of a company would not be used in a retailing operation or in a service rendered in conjunction with the sale of tangible consumer goods. The following activities are not considered retailing operations:

- A) The construction, reconstruction, alteration, remodeling, or improvement of real estate;
- B) The operation of a hotel or motel or other institution providing only lodging facilities;
- C) Other service professions which do not involve the transfer of tangible personal property other than as an incident to the service performed. For guidance in distinguishing service professions from retailing professions, the Department will rely on rules promulgated under the Service Occupation Tax Act at 86 Ill. Adm. Code 140.101 et seq.;
- D) Farming operations related to crop and livestock production

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do not constitute retailing. However, the marketing of such products would constitute a retailing operation and otherwise qualifying property used in marketing farm produce would qualify for the Section 201(h) credit.

- 10) Mining of coal or fluorite. Mining has the same meaning as in Section 613(c) of the Internal Revenue Code, but shall be limited to the mining of coal and fluorite (ITFA Section 203(e)(3)). Mining as defined in IRC Section 613(c) includes not only extraction, but also treatment processes such as cleaning, breaking, sorting, sizing, dust allaying, and loading for shipment.

11) New or used. Qualifying property can be new or used; however, used property does not qualify if it was previously used in Illinois in such a manner and by such a person as would qualify for the Illinois investment credit.

A) Example: Corporation A purchases a used pick-up truck, for use in its manufacturing business in Illinois, from an Illinois resident who used the truck for personal purposes in Illinois. If the truck meets all the other requirements for the investment credit it will not be disqualified, merely, because it was previously used in Illinois for a purpose which did not qualify for the credit. However, had Corporation A purchased the used truck from an Illinois taxpayer in whose hands the truck qualified for the investment credit, the truck would not be qualified property to Corporation A, even though the party from whom the truck was acquired had never received an investment credit for it.

B) Property which would otherwise qualify for the credit will not be disqualified because it was previously used in such a manner and by such a person as would have qualified for the investment credit provided--by--ITFA--Section--201(g) or--201(h) before the time such credit sections came into effect. Example: In August of 1983, Corporation A purchased a drill press for use in its manufacturing operation in an Illinois Enterprise Zone from Corporation B. Corporation B originally placed the drill press into service in its Illinois manufacturing operation in January of 1980, before the investment credit ITFA Section--201(g) or--201(h) came into effect. Even though Corporation B would have qualified for the Illinois investment credit had there been a credit in 1980, this will not disqualify Corporation A from claiming a credit for this property under--ITFA--Section--201(h) in--1983, provided the property is otherwise qualified. However, should Corporation A sell the property to Corporation C for use in its Illinois manufacturing operation, the property would not qualify for either the ITFA--Section--201(g) or

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2014(h) investment credit, even though it would otherwise qualify. Because the property was used in such a manner and by such a person as would have qualified for the investment credit under Section 2014(g) or 2014(h) at a time when at least one of the credits was in effect. The fact that the Section 2014(g) credit was not yet effective when Corporation A placed the property in service will not cause the property to qualify for the Section 2014(g) credit in the hands of corporation C because IITA Section 2014(g)(2) specifically provides that the property is disqualified if it previously qualified under either IITA Section 2014(g)(e) or 2014(h)(f).

(f) Apportioning cost when a building is used for both qualifying and non-qualifying operations. To qualify for the Section 201(h) credit, property must be used exclusively in one of the qualified operations, such as manufacturing, but the taxpayer need not be exclusively engaged in such operations. Therefore, situations may arise where a building or structure is used to house both qualifying and non-qualifying operations. In such cases, the portion of the cost associated with that part of the building used exclusively in manufacturing operations would qualify for the credit, but not that part of the building, or any part of a separate building, used for non-qualified operations. The cost of the building can be apportioned by multiplying the cost of the building by a fraction, the numerator of which is total square footage devoted to qualifying operations and the denominator of which is total square footage.

e) Additional investment credit. IITA Section 2014(g) provides an additional credit against the replacement tax of 5% of the basis of qualified property placed in service during the taxable year, but after June 30, 1986, provided the taxpayer's base employment in Illinois for the taxable year has increased by at least 1% over the preceding taxable year. If the growth in the taxpayer's base employment in Illinois is less than 1%, the additional credit will be limited to one-half of the percentage of increase in base employment.

1) Base employment. For purposes of calculating the additional investment credit, base employment in Illinois is defined as the average monthly total of individuals employed in Illinois by a taxpayer during the taxable year. To calculate base employment for a particular taxable year, the taxpayer need only total the number of individuals he employed in Illinois during each month of the taxable year as reported to the Illinois Department of Employment Security on line 1 of Form BE-3740 and divide this total by the number of months in the taxable year.

2) Example of the additional investment credit computation. During the calendar year 1985, Corporation A reported 500 employees

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each month on line 1 of Form BE-3740. Therefore, Corporation A's base employment in Illinois for 1985 was 500. (500 x 12 = 6000). In 1986, Corporation A reported 500 employees for each of the first six months and 505 employees for each of the remaining six months of the taxable year. Therefore, Corporation A's base employment for 1986 was 502.5 (500 x 6 + 505 x 6 = 502.5). Corporation A's percentage of increase in 1986 base employment over 1985 base employment is 5% (this figure is computed by subtracting the 1985 base employment from the 1986 base employment and dividing the remainder by the 1985 base employment: (502.5 - 500) / 500 = .005 or .5%). Corporation A will be allowed an additional investment credit for 1986 of 25% (one-half of the percentage of increase) times the adjusted basis of qualified property placed in service in Illinois during the taxable year and on or after July 17, 1986.

(g) Recapture. If within 48 months after being placed in service, any property ceases to be qualified property in the hands of the taxpayer or the situs of any qualified property is moved outside of Illinois, or outside of the enterprise zone, for other than a temporary or transitory purpose, then the personal property tax replacement income or the income tax (whichever was reduced by the credit) for the taxable year in which such event occurred will be increased.

1) Any property disposed of by the taxpayer within 48 months of being placed in service ceases to qualify. Also, any property converted to personal use ceases to qualify. In the case of an IITA Section 2014(g) investment credit, any property used in other than manufacturing, retailing, coal mining or fluorite mining ceases to qualify.

2) A taxpayer disposes of property when he sells the property, exchanges or trades in worn-out property for new property, abandons the property or retires it from use. Property destroyed by casualty, stolen, or transferred as a gift is treated as having been disposed of. Property which is mortgaged or used as security for a loan does not cease to qualify provided the taxpayer continues to use the property in its business within Illinois, or within an enterprise zone in the case of a Section 2014(h) investment credit. Property transferred to a trustee in bankruptcy who does not continue the taxpayer's business in order to liquidate the assets and make distributions to the creditors is considered disposed of in the year the property is transferred to the trustee. A transfer of property by foreclosure is treated as a disposition.

3) The reduction of the basis of qualified property resulting from the redetermination of the purchase price is a disposition of qualified property to the extent of such reduction in the taxable year the reduction takes place. This occurs, for

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example, when property is purchased and placed in service in one year, and in a later year the taxpayer receives a refund of part of the original purchase price. See Regulation Section 1.47-2(c) under the Internal Revenue Code.

- 4) In order to determine the amount by which the personal property tax replacement income tax or the income tax must be increased in the taxable year in which the property ceased to qualify, was moved outside of Illinois or the enterprise zone, the taxpayer must recompute the investment credit for the taxable year in which the property was placed in service by eliminating from his calculations any such property. This recomputed investment credit is subtracted from the amount of credit actually used in the year in which the disqualified property was placed in service. The difference between the recomputed credit and the credit actually used is added to the personal property tax replacement income tax or the income tax for the year in which the property ceased to qualify or was moved outside of Illinois. If the recomputed credit is greater than the credit actually used in the year the property was placed in service, no addition to the current taxable year's personal property tax replacement income tax or income tax is required.

EXAMPLE: In 1985, Corporation A places qualifying property with a basis of \$55,000.00 into service in an enterprise zone located in Illinois and computes a Section 201(g) investment credit for the year of \$275.00 (\$55,000.00 x .5%) and a Section 201(h) investment credit of \$275.00 (\$55,000.00 x .5%). Corporation A's 1985 personal property tax replacement income tax is \$260.00 and its income tax liability for the year is \$420.00. After application of the Section 201(g) investment credit and the Section 201(g) investment credit, Corporation A has no remaining replacement tax liability and its remaining income tax liability is \$145.00. In the following year, Corporation A moved a qualifying asset having a basis in 1985 of \$5,000.00 from the enterprise zone to another location in Illinois and is therefore required to recapture a portion of the Section 201(h) investment credit applied against its 1985 income tax liability. The Section 201(h) investment credit applied against its replacement tax would be unaffected because the property was not moved outside of Illinois and thus continues to qualify for this credit. In order to determine its additional income tax for 1986, Corporation A must recompute its 1985 Section 201(h) investment credit by eliminating the disqualified property (\$55,000.00 - \$5,000.00 x .5% = \$250.00). This recomputed credit is subtracted from the investment credit actually used in 1985 against the income tax (\$260.00 - \$250.00 = \$10.00) and the difference is added to Corporation A's 1986 income tax after application of the 1986 investment credit.

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(Source: Amended 19 Ill. Reg. 1839 effective FEB 06 1995)

## Section 100.20101 Replacement Tax Investment Credit (IITA 201(e))

- a) A taxpayer shall be allowed a credit against the Personal Property Replacement Income Tax for investment in qualified property ("the investment credit"). The qualified property must be used in Illinois by a taxpayer who is primarily engaged in manufacturing, retailing, coal mining or fluorite mining.
- b) A taxpayer shall be allowed a credit equal to .5% of the basis of qualified property placed in service during the taxable year, provided such property is placed in service on or after July 1, 1984 and before January 1, 1997 (IITA Section 201(e)(1)).
- c) There shall be allowed an additional credit equal to .5% of the basis of qualified property placed in service during the taxable year, provided such property is placed in service on or after July 1, 1986, and the taxpayer's base employment in Illinois has increased by at least 1% over the preceding year. If, in any preceding year is less than 1%, the additional credit shall be limited to that percentage times a fraction, the numerator of which is .5% and denominator of which is 1%, but shall not exceed .5% (IITA Section 201(e)(1)).
- 1) Base employment. For purposes of calculating the additional investment credit, base employment in Illinois is defined as the average monthly total of individuals employed in Illinois by a taxpayer during the taxable year. To calculate base employment for a particular taxable year, the taxpayer need only total the number of individuals he employed in Illinois during each month of the taxable year as reported to the Illinois Department of Employment Security on Line 1 of Form UC-3/40 and divide this total by the number of months in the taxable year.
- 2) Example of the Additional Investment Credit Computation. During the calendar year 1994, Corporation A reported 300 employees each month on Line 1 of Form UC-3/40. Therefore, Corporation A's base employment in Illinois for 1994 was 500 ((500 x 12) divided by 12 = 500). In 1995, Corporation A reported 500 employees for each of the first six months, and 505 employees for each of the remaining six months of the taxable year. Therefore, Corporation A's base employment for 1995 was 502.5 ((500 x 6) + (505 x 6) divided by 12 = 502.5). Corporation A's percentage of increase in 1995 base employment over 1994 base employment is .5%. This figure is computed by subtracting the 1994 base employment from the 1995 base employment and dividing the remainder by the 1994 base employment ((502.5 - 500) divided by 500 = .005 or .5%). Corporation A



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will be allowed an additional investment credit for 1995 of .25% (one-half of the percentage of increase) times the adjusted basis of qualified property placed in service in Illinois during the taxable year and on or after July 1, 1986.

- d) The investment credit is not allowed to the extent it would decrease the taxpayer's replacement tax liability for the taxable year to less than zero, nor may any credit for qualified property be allowed for any year other than the year in which the property was placed in service in Illinois. No carryback or carryforward of unused credit is allowed for tax years ending prior to December 31, 1985. For tax years ending after December 31, 1988, the credit shall be allowed for the tax year in which the property is placed in service, or, if the amount of the credit exceeds the tax liability for that year, whether it exceeds the original liability or the liability as later amended, such excess may be carried forward and applied to the tax liability of the 5 taxable years following the excess credit year. The credit shall be applied to the earliest year for which there is a liability. If there is credit from more than one tax year that is available to offset a liability, earlier credit shall be applied first.

- e) Qualified property. In order to qualify for the investment credit, property must be tangible; depreciable pursuant to Internal Revenue Code Section 167, except that "3-year property" as defined in IRC Section 168(c)(2)(A) is not eligible; and acquired by purchase as defined in Internal Revenue Code Section 179(d). In addition to the above requirements, property must be used in Illinois by the taxpayer who is engaged primarily in manufacturing, retailing, coal mining or fluorite mining, in order to qualify for the IITA Section 201(e) credit against the replacement tax. Qualified property can be new or used, but cannot have been previously used in Illinois, in such a manner and by such a person as would qualify for the investment credit, or for the Section 201(f) Enterprise Zone Investment Credit, and includes buildings and structural components thereof.

- 1) Tangible property, whether new or used, can consist of personalty or realty and includes, but is not limited to, buildings and structural components of buildings, signs that are real property, machinery, equipment, and vehicles. Certain property, though tangible in nature, does not qualify as investment credit property because it is not depreciable.

- 2) Depreciable. In order to qualify for the investment credit, property must also be depreciable pursuant to IRC Section 167. IRC Section 167 provides that depreciable property is property used in the taxpayer's trade or business or held for the production of income which is subject to wear and tear, exhaustion, or obsolescence.

- A) Property which is depreciated under the Modified Accelerated Cost Recovery System (MACRS), as provided by

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IRC Section 168, is considered depreciable pursuant to IRC Section 167 for purposes of the investment credit. Property assigned to a MACRS class of less than 4 years does not qualify for the investment credit.

- B) Examples of tangible property which is not depreciable are land, inventories or stock in trade, natural resources, and coin or currency.

- C) The provisions of IRS Regulation Section 1.167(a)-4 shall govern in determining whether leasehold improvements are depreciable.

- D) IRC Section 179 allows taxpayers, under certain circumstances, to expense up to \$10,000 of equipment purchased in a single tax year. Based on this provision, if the total cost of the property was \$10,000 or less, the taxpayer has the option of expensing the cost all in one year as a depreciation expense. While the property does have a useful life of four or more years, since the election was made to completely expense the cost of the property in one year, the property has no federal depreciable basis and does not have a basis upon which to compute the Illinois investment tax credit. Property not fully expensed under Section 179 would qualify for the credit based on the cost of the depreciable property reduced by the Section 179 deduction.

- 3) Placed in service. For purposes of the Illinois investment credit, "placed in service" has the same meaning as under IRC Section 46. Property will be considered to have been placed in service in the same taxable year in which it is taken into account in determining the federal investment tax credit. See IRS Regulation Section 1.46-3(d).

- A) Even though property is placed in service in the same taxable year in which it is taken into account in determining the Federal investment tax credit, only property placed in service in Illinois after June 30, 1984 and before January 1, 1997 can qualify for consideration in determining the credit against the replacement tax. Qualifying property shall be considered placed in service in Illinois on the date on which the property is placed in a condition or state of readiness and available for a specifically assigned function. See IRS Reg. Section 1.46-3(d)(2).

- B) Property which is disposed of, moved out of Illinois or which ceases to qualify for any other reason during the same taxable year it was placed in service in Illinois will not be considered in computing the investment credit for the taxable year.

- 4) Adjusted basis. The basis of qualified property for purposes

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of the investment credit is the property's basis used to compute the depreciation deduction for federal income tax purposes.

A) In computing the amount of investment credit available for a taxable year, the proper investment credit rate will be applied to the total basis of all qualified property placed in service in Illinois during the taxable year, provided the property continues to qualify on the last day of the taxable year.

B) If the basis of property placed in service during a taxable year is increased or decreased during the same taxable year, the increased or decreased basis will be used to compute the investment credit for the taxable year.

5) Acquired by purchase. In order to qualify for the investment credit, the property must have been acquired by purchase as defined in IRC Section 179(d). For purposes of determining whether property is acquired by purchase as defined by IRC Section 179(d), the family of an individual includes only his spouse, ancestors and lineal descendants. Also, for these purposes only, a controlled group has the same meaning as in IRC Section 1563(a), except stock ownership of only 50% or more is required. See Regulation Section 1.179-4 under the Internal Revenue Code. Property which the taxpayer constructs, reconstructs or erects itself is generally considered acquired by purchase. IRC Section 179 defines purchase as any acquisition of property except:

A) an acquisition from a person whose relationship to the acquiring person is such that a resulting loss would be disallowed under IRC Sections 267 or 707(b);

B) an acquisition by one component member of a controlled group from another component member of the group; an acquisition of property, if the basis of the property in the hands of the person acquiring it is determined in whole or in part by its adjusted basis in the hands of the person from whom the property was acquired; or

C) an acquisition of property, the basis of which is determined under IRC Section 1014(a). IRC Section 1014(a) covers property acquired from a decedent. Property acquired by bequest or devise is not acquired by purchase.

6) Used in Illinois. Mobile property such as vehicles must be used predominantly in Illinois. Removal of such property from Illinois for a temporary and transitory purpose will not disqualify the property so long as it continues to be used predominantly in the Illinois operation of the taxpayer. For purposes of this Section, mobile property is considered to be predominantly used in Illinois if usage

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in Illinois exceeds usage outside of Illinois. Example: A retailer sometimes uses its trucks based in Illinois to deliver goods both in Illinois and to out-of-State buyers. Such temporary absence of its trucks from Illinois does not disqualify them.

7) A lessor of otherwise qualifying property, which property is used by the lessee in manufacturing, retailing, or coal or fluorite mining operations, would not qualify for the credit because the property is not used "by the taxpayer".

8) "Manufacturing" is defined in IMA Section 201(e)(3) as the material staging and production of tangible personal property by procedures commonly regarded as manufacturing, processing, fabrication or assembling which changes some existing material into new shapes, new qualities, or new combinations. It is not necessary that such procedures result in a finished consumer product. Procedures commonly regarded as manufacturing, processing, fabrication or assembling are those so regarded by the general public. If a taxpayer primarily engages in the following operations, the taxpayer will not qualify for the investment credit on the basis of engaging primarily in manufacturing. The activities described are generally not considered manufacturing operations:

A) Agricultural activities such as cultivating the soil; raising or harvesting crops; the production of seed or seedlings; and the development of hybrid seeds, plants, or shoots are not manufacturing operations. The raising or breeding of livestock, poultry, fish or any other animals, as well as commercial fishing or beekeeping, is not manufacturing.

B) Manufacturing operations do not include mining; quarrying; logging; drilling for oil, gas or water; or any other operations which result in the extraction or procurement of a natural resource. However, the refining or processing of such natural resources into a product of a different form or a product which has different qualities is manufacturing.

C) Persons engaged in the construction, reconstruction, alteration, remodeling, or improvement of real estate are not considered engaged in manufacturing operations.

D) Manufacturing operations do not include research and development of new products or production techniques.

E) Manufacturing operations do not include the use of machinery or equipment in managerial or other non-production, non-operational activities including disposal of waste, scrap or residue, inventory control, production scheduling, work routing, purchasing, receiving, accounting, fiscal management, general communications, plant security, or personnel recruitment, selection or training.



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9) Retailing. Retailing is defined as the sale of tangible personal property or services rendered in conjunction with the sale of tangible consumer goods or commodities (IITA Section 203(e)(3)). It is required that such tangible personal property be finished consumer goods, and the property be sold to its ultimate consumer. For example, sales of tangible personal property for resale are not included in the definition of retailing. The following activities are not considered retailing operations:

- A) The construction, reconstruction, alteration, remodeling, or improvement of real estate;
- B) The operation of a hotel or motel or other institution providing only lodging facilities;
- C) Other service professions which do not involve the transfer of tangible personal property other than as an incident to the service performed. For guidance in distinguishing service professions from retailing professions, the Department will rely on rules promulgated under the Service Occupation Tax Act at 86 Ill. Adm. Code 140;
- D) Farming operations related to crop and livestock production do not constitute retailing. However, the marketing of such products would constitute a retailing operation.

10) Mining of coal or fluorite. Mining has the same meaning as in Section 613(c) of the Internal Revenue Code, but shall be limited to the mining of coal and fluorite (IITA Section 203(e)(3)). Mining as defined in IRC Section 613(c) includes not only extraction, but also treatment processes such as cleaning, breaking, sorting, sizing, dust allaying, and loading for shipment.

11) New or used. Qualifying property can be new or used; however, used property does not qualify if it was previously used in Illinois in such a manner and by such a person as would qualify for the Illinois investment credit.

A) Example: Corporation A purchases a used pick-up truck, for use in its manufacturing business in Illinois, from an Illinois resident who used the truck for personal purposes in Illinois. If the truck meets all the other requirements for the investment credit, it will not be disqualified merely because it was previously used in Illinois for a purpose which did not qualify for the credit. However, had Corporation A purchased the used truck from an Illinois taxpayer in whose hands the truck qualified for the investment credit, the truck would not be qualified property to Corporation A, even though the party from whom the truck was acquired had never received an investment

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credit for it.

B) Property which would otherwise qualify for the credit will not be disqualified because it was previously used in such a manner and by such a person as would have qualified for the investment credit before the time such credit came into effect. Example: In August of 1983, Corporation A purchased a drill press for use in its manufacturing operation in an Illinois Enterprise Zone from Corporation B. Corporation B originally placed the drill press into service in its Illinois manufacturing operation in January of 1980, before IITA Section 201(e) came into effect. Even though Corporation B would have qualified for the Illinois investment credit had there been a credit in 1980, this will not disqualify Corporation A from claiming a credit for this property, provided the property is otherwise qualified. However, should Corporation A sell the property to Corporation C for use in its Illinois manufacturing operation, the property would not qualify for the credit, even though it would otherwise qualify, because the property was used in such a manner and by such a person as would have qualified for the investment credit under Section 201(g) or 201(h) at a time when at least one of the credits was in effect. The fact that the Section 201(e) credit was not yet effective when Corporation A placed the property in service will not cause the property to qualify for the Section 201(e) credit in the hands of Corporation C because IITA Section 201(e) specifically provides that the property is disqualified if it previously qualified under either IITA Section 201(e) or 201(f).

f) To qualify for the credit, property must be used in Illinois by a taxpayer who is primarily engaged in manufacturing, or in mining coal or fluorite, or in retailing. It is not required that the property be used exclusively in manufacturing, mining of coal or fluorite or in retailing. So long as the taxpayer is primarily, more than 50%, engaged in one of these operations, all qualified property is eligible for the credit, even if the property is not actually used in an exempt manufacturing, coal or fluorite mining or retailing process. The taxpayer must engage primarily in one or more of the operations. In other words, a taxpayer that is engaged 30% of the time in retailing and 40% of the time in manufacturing will qualify for the credit, because the taxpayer is engaged primarily in one or more of the operations. In determining whether a taxpayer is primarily engaged in an activity the Department will look to the gross receipts of the taxpayer received in the ordinary course of business by that taxpayer. For example, if more than 50% of the taxpayer's gross receipts are from manufacturing, the taxpayer is primarily engaged in



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manufacturing, or if more than 50% of the gross receipts are from retailing, the taxpayer is primarily engaged in retailing. The taxpayer (and the Department) will look to the gross receipts received by the taxpayer in the ordinary course of business. Therefore, if, for example, the taxpayer suffers a casualty loss and that is compensated for by an insurance payment, the amount of money so received will not be deemed gross receipts received in the ordinary course of business, and disqualify the taxpayer from eligibility and perhaps result in the recapture of credits granted in prior years.

**EXAMPLE 1:** Corporation A manufactures CD ROM Units for personal computers, which are sold to others for resale. Corporation A also engages in the retail sale of canned computer software. Finally, Corporation A develops and sells custom computer software to various clients. Corporation A receives 20% of its gross receipts from the manufacturing of CD ROM Units, 40% of its gross receipts from retail sales of canned software, and 40% of its gross receipts from its custom computer software development and sales operations. Corporation A is eligible for the credit. Corporation A is engaged primarily in manufacturing and retailing, because the total of its manufacturing and retailing operations is 80% of its gross receipts. Therefore, the Corporation is eligible for the credit.

**EXAMPLE 2:** Corporation B operates a hotel. 80% of the gross receipts of Corporation B are from the renting of rooms, 5% of the gross receipts are from the operation of a gift shop in the hotel and the remaining 15% of the gross receipts are from the operation of a restaurant and lounge in the hotel. The renting of rooms is not retailing. Therefore, Corporation B is ineligible for the credit because it is not engaged primarily in retailing, even though it does, through the operation of the gift shop, restaurant and lounge, engage in some retailing activities.

**g) Recapture. If, within 48 months after being placed in service, any property ceases to be qualified property in the hands of the taxpayer or the situs of any qualified property is moved outside of Illinois, or outside of the enterprise zone, for other than a temporary or transitory purpose, then the personal property tax replacement income for the taxable year in which such event occurred will be increased (ITRA Section 201(e)(7)).** If, during the 48 month period, the taxpayer ceased to be primarily engaged in retailing, manufacturing, coal or fluorite mining, the property ceases to be qualified property. Therefore, previously granted credits must be recaptured.

- 1) Any property disposed of by the taxpayer within 48 months after being placed in service ceases to qualify.
- 2) A taxpayer disposes of property when he sells the property, exchanges or trades in worn-out property for new property, abandons the property or retires it from use. Property destroyed by casualty, stolen, or transferred as a gift is treated as having been disposed of. Property which is mortgaged or used as security for a loan does not cease to qualify provided the

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taxpayer continues to use the property within Illinois. Property transferred to a trustee in bankruptcy is considered disposed of in the year the property is transferred to the trustee. A transfer of property by foreclosure is treated as a disposition. The reduction of the basis of qualified property resulting from the redetermination of the purchase price is a disposition of qualified property to the extent of such reduction in the taxable year the reduction takes place. This occurs, for example, when property is purchased and placed in service in one year, and in a later year the taxpayer receives a refund of part of the original purchase price. See Regulation Section 1.47-2(c) under the Internal Revenue Code.

4) In order to determine the amount by which the personal property tax replacement income tax must be increased in the taxable year in which the property ceased to qualify or was moved outside of Illinois or the enterprise zone, the taxpayer must recapture the investment credit for the taxable year in which the property was placed in service by eliminating from his calculations any such property. This recomputed investment credit is subtracted from the amount of credit actually used in the year in which the disqualified property was placed in service. The difference between the recomputed credit and the credit actually used is added to the personal property tax replacement income tax or the income tax for the year in which the property ceased to qualify or was moved outside of Illinois. If the recomputed credit is greater than the credit actually used in the year the property was placed in service, no addition to the current taxable year's personal property tax replacement income tax or income tax is required.

**EXAMPLE:** In 1985, Corporation A places qualifying property with a basis of \$55,000.00 into service in an enterprise zone located in Illinois and computes a Section 201(e) investment credit for the year of \$275.00 (\$55,000.00 x .5%). Corporation A's investment credit of \$275.00 (\$55,000.00 x .5%). Corporation A's 1985 personal property tax replacement income tax is \$260.00 and its income tax liability for the year is \$420.00. After application of the credit, Corporation A has no remaining replacement tax liability and its remaining income tax liability is \$145.00. In the following year Corporation A moved a qualifying asset having a basis in 1985 of \$5,000.00 from Illinois and is therefore required to recapture a portion of the investment credit applied against its replacement tax. In order to determine its additional income tax for 1986, Corporation A must recapture its 1985 investment credit by eliminating the disqualified property (\$55,000.00 - \$5,000.00 x .5% = \$250.00). This recomputed credit is subtracted from the investment credit actually used in 1985 against the income tax (\$260.00 - \$250.00 = \$10.00) and the difference is added to Corporation A's 1986

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income tax after application of the 1986 investment credit.

(Source: Added at 19 Ill. Reg. **1839**, effective **FEB 06 1995**)

**Section 100.2110 Investment Credit; Enterprise Zone (IITA 201(f))**

- a) A taxpayer shall be allowed a credit against the tax imposed by IITA Sections 201(a) and (b) for investment in qualified property which is placed in service in an Enterprise Zone created pursuant to the Illinois Enterprise Zone Act [20 ILCS 655]. The credit is reported on Schedules 1299 A, C, or D. Recapture (see subsection (g) below) is computed on Schedule 4255.
- b) For partners and shareholders of Subchapter S corporations, there shall be allowed an enterprise zone investment credit to be determined in accordance with the determination of income and distributive share of income under Section 702 and 704 and Subchapter S of the Internal Revenue Code.
- c) The credit shall be .5% of the basis for such property.
- d) The credit shall be available only in the taxable year in which the property is placed in service in the Enterprise Zone and shall not be allowed to the extent that it would reduce a taxpayer's liability for the tax imposed by IITA Sections 201(a) and (b) below zero.
  - 1) Qualifying property shall be considered placed in service in an Illinois Enterprise Zone on the date on which the property is placed in a condition or state of readiness and availability for a specifically assigned function.
  - 2) Property that is disposed of, moved out of the Enterprise Zone, or which ceases to qualify for any other reason during the same taxable year it was placed in service in an Enterprise Zone will not be considered in computing the credit for the taxable year.
  - 3) The credit shall be allowed for the tax year in which the property is placed in service, or, if the amount of the credit exceeds the original liability or the liability as later amended, such excess may be carried forward and applied to the tax liability of the 5 taxable years following the excess credit year.
  - 4) The credit shall be applied to the earliest year for which there is a liability.
  - 5) If there is credit for more than one tax year that is available to offset a liability, the credit accruing first in time shall be applied first.
- e) The term "qualified property" means property which is:
  - 1) tangible, whether new or used. The terms "new or used" shall have their commonly ascribed meanings. Buildings and structural components of buildings may be qualified property. The term tangible property generally includes:
    - A) objects or things that are physically capable of being

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touched and seen and over which a person may assert rights of ownership.

- B) personalty or realty which may consist of such items as buildings, component parts of buildings, machinery, equipment and vehicles.
  - C) Items such as stock certificates, bonds, notes and the like are not tangible personal property. While the certificate or paper may be tangible, the item itself, the share of ownership of a corporation or the promise to pay, is an intangible that is memorialized by the paper.
- 2) depreciable pursuant to IRC Section 167, except that 3-year property as defined in IRC Section 168(c)(2)(A) is not eligible for the credit.
- A) Depreciable property is property used in the trade or business of a taxpayer, or held for production of income, which is subject to wear and tear, exhaustion, or obsolescence.
  - B) Property that is depreciated under the Modified Accelerated Cost Recovery System (MACRS), as provided by Section 168 of the Internal Revenue Code, is considered depreciable pursuant to Section 167 for purposes of the Enterprise Zone Investment Credit.
  - C) Examples of tangible property that is not depreciable include land, inventories or stock-in-trade, natural resources, and coin or currency.
  - D) The provisions of Internal Revenue Code Section 1.167(a)-4 will be utilized in making determinations as to whether particular leasehold improvements are depreciable.
- 3) acquired by purchase as defined in IRC Section 179(d).
- A) A purchase is any acquisition of property except:
    - i) an acquisition from a person whose relationship to the acquiring person is such that a resulting loss would be disallowed under IRC Section 267 or 707(b);
    - ii) an acquisition by one component member of a controlled group from another component member of the group;
    - iii) an acquisition of property if the basis of the property in the hands of the person acquiring it is determined in whole or in part by its adjusted basis in the hands of the person from whom the property was acquired; or
    - iv) an acquisition of property, the basis of which is determined under IRC Section 1014(a). IRC Section 1014(a) covers property received from a decedent. Property acquired by bequest or demise is not acquired by purchase.
- B) For purposes of determining whether property is acquired by purchase as defined by IRC Section 179(d), the family of an individual includes only his spouse and ancestral and lineal



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descendants of the individual and his spouse.

- C) For purposes of determining whether property is acquired by purchase only, a controlled group has the same meaning as in IRC Section 1563(a), except stock ownership of only 50% or more is required (Also See IRS Regulation Section 1.1179-4).
- D) Property that the taxpayer constructs, reconstructs or erects is generally considered acquired by purchase.

## 4)

used in the Enterprise Zone by the taxpayer.

- A) The term "used in an Illinois Enterprise Zone" means that the property for which the credit is being claimed is physically located within the boundaries of an Illinois Enterprise Zone certified by the Illinois Department of Commerce and Community Affairs from the time it is placed in service and while it is being utilized by the taxpayer claiming the credit in that taxpayer's business operation.

- i) Storage of property in an Enterprise Zone will not constitute use. The taxpayer must make use of, convert to its service, avail itself of, or employ the property in the Enterprise Zone in order to demonstrate use of the property in the Enterprise Zone.

- ii) a lessor may claim the credit for otherwise qualified property if the property is physically located in an Illinois Enterprise Zone from the time it is placed in service and all other conditions of eligibility for the credit are met.

- iii) a lessee of tangible property may never claim the credit because a lessee has not acquired the property by purchase.

- B) Mobile property, such as vehicles, must be used predominantly in an Illinois Enterprise Zone in order to qualify for the credit.

- i) Removal of such property from the Enterprise Zone for a temporary or transitory purpose will not disqualify the property so long as it continues to be used predominantly in the Enterprise Zone.

- ii) Mobile property is considered to be predominantly used in an Enterprise zone if usage in the Enterprise Zone exceeds usage outside of the Enterprise Zone.

- 5) not property that has been previously used in Illinois in such a manner and by such a person as would qualify for the credit.

- A) Generally, used property will not qualify for the credit if it was previously used in Illinois in such a manner that it could have qualified for the credit.

- B) However, property that would otherwise qualify for the credit will not be disqualified because it was previously used in Illinois in such a manner that it could have qualified for the credit, if that use pre-dated the

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effective date of the law that established the credit.

EXAMPLE 1: Corporation A purchases a used pickup truck for use in its manufacturing business in Illinois from an Illinois resident who used the truck for personal purposes in Illinois. If the truck meets all other requirements for the credit, it will not be disqualified because it has been previously used in Illinois for a non-qualifying purpose.

EXAMPLE 2: Corporation A purchases a used pickup truck from Corporation B. Corporation B used the truck in its business in a qualifying manner and could have claimed the credit for the truck, but did not. Corporation A may not claim the credit for the truck because the truck has been previously used in Illinois in such a manner that it could have qualified for the credit.

- E) The basis of qualified property shall be the basis used to compute the depreciation deduction for federal income tax purposes. If the basis of the property for federal income tax depreciation purposes is increased after it has been placed in service in the Enterprise Zone by the taxpayer, the amount of such increase shall be deemed property placed in service on the date of such increase in basis.

- G) If, during any taxable year, any property ceases to be qualified property in the hands of the taxpayer within 48 months after being placed in service, or the situs of any qualified property is moved outside the Enterprise Zone within 48 months after being placed in service, the tax imposed under IITA Sections 201(a) and (b) for such taxable year shall be increased.

- 1) Any property disposed of by the taxpayer within 48 months after being placed in service ceases to qualify.

- A) A taxpayer disposes of property when he sells the property, exchanges or trades-in worn-out property for new property, abandons the property or retires it from use.

- B) Property destroyed by casualty, stolen, or transferred as a gift is disposed of property.

- C) Property that is mortgaged or used as security for a loan is not disposed of property, provided that the taxpayer continues to use the property in its business within an Illinois Enterprise Zone.

- D) Property transferred to a trustee in bankruptcy is considered disposed of property.

- E) A transfer of property by foreclosure is a disposition of property.

- F) A reduction in the basis of qualified property resulting from a redetermination of the purchase price of the property is a disposition of property to the extent of such reduction in basis in the year in which the reduction takes place. For example, this would occur when property is purchased and placed in service in one year, and in a later year the taxpayer receives a refund of a portion of the original purchase price.



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2) Any property converted to personal use ceases to qualify for the credit.

3) The increase in tax shall be determined by:  
A) recomputing the investment credit which would have been allowed for the year in which credit for such property was originally allowed by eliminating such property from such computation, and

B) subtracting such computed credit from the amount of credit previously allowed. The difference between the recomputed credit and the credit actually claimed is added to the income tax for the year in which the property ceased to qualify or was moved outside of the Enterprise Zone.

EXAMPLE: In 1985, Corporation A places qualifying property with a basis of \$55,000 into service in an Enterprise Zone located in Illinois and computes a Section 201(f) Enterprise Zone Investment Tax Credit of \$275.00 (\$55,000 x .5%). Corporation A's 1985 income tax liability is \$420. After the application of the credit, Corporation A has remaining income tax liability of \$145. In the following year, Corporation A moved a qualifying asset having a basis in 1985 of \$5,000 from the Enterprise Zone to another location in Illinois. As a result, Corporation A is required to recapture a portion of the Enterprise Zone Investment Credit that was applied against its 1985 income tax liability. In order to determine its additional income tax for 1986, Corporation A must recompute its 1985 Enterprise Zone Investment Tax Credit by eliminating the disqualified property (\$55,000 - \$5,000 x .5% = \$250). This recomputed credit is subtracted from the Enterprise Zone Investment Tax Credit actually used in 1985 (\$260 - \$250 = \$10), and the difference is added to Corporation A's 1986 income tax after application of the 1986 investment credit.

(Source: Added at 19 Ill. Reg. **1839**, effective FEB 06 1995)

### Section 100.2120 Jobs Tax Credit; Enterprise Zone and Foreign Trade Zone or Sub-zone (IITA 201(g))

a) A taxpayer conducting a trade or business in an enterprise zone, or a High Impact Business designated by the Department of Commerce and Community Affairs conducting a trade or business in a federally designated Foreign Trade Zone or Sub-Zone, shall be allowed a credit against the tax imposed by Sections 201(a) and (b) of the Illinois Income Tax Act in the amount of \$500 per eligible employee hired to work in the zone during the taxable year. The credit is available for eligible employees hired on or after January 1, 1986 (IITA Section 201(g)).

To qualify for the credit:

1) The taxpayer must hire 5 or more eligible employees to

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work in an enterprise zone or federally designated Foreign Trade Zone or Sub-Zone during the taxable year.

2) The taxpayer's total employment within the enterprise zone or federally designated foreign trade zone or sub-zone must increase by 5 or more full-time employees beyond the total employed in that zone at the end of the previous tax year for which a jobs tax credit under this Section was taken, or beyond the total employed by the taxpayer as of December 31, 1985, whichever is later.

A) If a taxpayer was in business in 1985 at a location, has never before taken the credit, and is located in an enterprise zone created before or during 1985, the taxpayer would use 1985 as the base year.

B) If a taxpayer was in business in 1985 at a location, has never before taken the credit, and is located in an enterprise zone created after 1985, the taxpayer's base year for calculating the increase in employment is the total employed at the end of the calendar year in which the enterprise zone was created. The law is clear that the credit is a reward for increasing employment in enterprise zones. To use 1985 as a base year, even if no enterprise zone was then in existence, is not consistent with this clear goal of the law. In such a situation, a taxpayer would not always be able to show that there was job creation in the enterprise zone. For example, while employment may have increased over 1985 levels, there may not have been an increase in employment from the end of the calendar year in which the zone was created. Therefore, to accept 1985 as the base year no matter whether there was an enterprise zone in existence at that time, could result in providing a credit for job creation that did not occur in an enterprise zone. Such a result would be contrary to law.

3) The eligible employees must be employed 180 consecutive days in order to be deemed hired for purposes of this subsection.

EXAMPLE: An otherwise eligible employee is hired to work in an enterprise zone on August 1, 1987. The employer's tax year ends on December 31, 1987. The employee would have worked 153 days during the 1987 tax year and, therefore, would not be considered to be "deemed hired" in 1987. Even if all other requirements were met, the employer would not be eligible for the jobs tax credit for 1987. Once the employee has been employed for 180 consecutive days, the employee is deemed hired. Therefore, in this instance, the employee would be "deemed hired" in 1988. If all other requirements were met, the employer could claim the Jobs Tax Credit for this employee for the 1989 tax year.

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c) An "eligible employee" means an employee who is:

- 1) certified by the Department of Commerce and Community Affairs (DCCA) as "eligible for services" pursuant to regulations promulgated in accordance with Title II of the Job Training Partnership Act, Training Services for the Disadvantaged or Title III of the Job Training Partnership Act, Employment and Training Assistance for Dislocated Workers Program. Whenever an employee is certified, a voucher is completed by the applicant and approved by DCCA. The vouchers are entitled "Illinois Department of Commerce and Community Affairs, Enterprise Zone Program, Jobs Tax Credit Certification Voucher." Taxpayers should request a copy of the voucher to verify that the employee is DCCA certified. Taxpayers should maintain a copy of the voucher in their files to document eligibility status of employees in the event of an audit.
- 2) hired after the enterprise zone or federally designated foreign trade zone or sub-zone was designated or the trade zone or business was located in that zone, whichever is later. The term "hired" means hired by the particular employer claiming the credit. Employees transferred from another facility of the employer to a facility located in an enterprise zone or federally designated foreign trade zone or sub-zone are not deemed "hired" upon transfer to a facility located in the enterprise zone or federally designated foreign trade zone or sub-zone.
- 3) employed in the enterprise zone or foreign trade zone or sub-zone. An employee is employed in an enterprise zone or federally designated foreign trade zone or sub-zone if his services are rendered there or it is the base of operations for the services performed, and
  - 4) a full-time employee working 30 or more hours per week.
- d) For tax years ending on or after December 31, 1985, and prior to December 31, 1988, the credit shall be allowed for the tax year in which the eligible employees are hired. For tax years ending on or after December 31, 1988, the credit shall be allowed for the tax year immediately following the tax year in which the eligible employees are hired. If the amount of the credit exceeds the tax liability for that year, whether it exceeds the original liability or the liability as later amended, such excess may be carried forward and applied to the tax liability of the 5 taxable years following the excess credit year. The credit shall be applied to the earliest year for which there is a liability. If there is credit from more than one tax year that is available to offset a liability, earlier credit shall be applied first.

(Source: ~~Added~~ 19 Ill. Reg. **1839**, effective **FEB 06 1985**)

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## Section 100.2130 Investment Credit; High Impact Business (IITA 201(b))

- a) Subject to the minimum investment requirements of Section 5.5 of the Illinois Enterprise Zone Act, a taxpayer shall be allowed a credit against the tax imposed by IITA Sections 201(a) and (b) for investment in qualified property which is placed in service in a federally designated Foreign Trade Zone or Sub-Zone located in Illinois by a Department of Commerce and Community Affairs designated High Impact Business. The credit is reported on Schedules 1299 A, C or D. Recapture (see subsection (i) below) is computed on Schedule 4255.
- b) The credit shall be .5% of the basis for such property.
- c) The credit shall not be available until the minimum investments in qualified property set forth in Section 5.5 of the Illinois Enterprise Zone Act have been satisfied and shall not be allowed to the extent that it would reduce a taxpayer's liability for the tax imposed by IITA Sections 201(a) and (b) to below zero. The credit applicable to such minimum investments shall be taken in the taxable year in which such minimum investments have been completed. The credit for additional investments beyond the minimum investment by a designated high impact business shall be available only in the taxable year in which the property is placed in service and shall not be allowed to the extent that it would reduce a taxpayer's liability for the tax imposed by IITA Sections 201(a) and (b) to below zero. The minimum investments required by Section 5.5 of the Illinois Enterprise Zone Act are:
  - 1) \$12,000,000 which will be placed in service in qualified property with an intention to create 500 full-time equivalent jobs at a designated location in Illinois, or
  - 2) \$30,000,000 which will be placed in service in qualified property with the intention to retain 1,500 full-time jobs at a designated location in Illinois.
- d) The Illinois Department of Commerce and Community Affairs must certify that the minimum investment requirements have been met. For tax years ending on or after December 31, 1987, the credit shall be allowed for the tax year in which the property is placed in service, or, if the amount of the credit exceeds the tax liability for that year, whether it exceeds the original liability or the liability as later amended, such excess may be carried forward and applied to the tax liability of the 5 taxable years following the excess credit year. The credit shall be applied to the earliest year for which there is a liability. If there is a credit from more than one tax year that is available to offset a liability, the credit accruing first in time shall be applied first.
- e) The term "qualified property" means property which is:
  - 1) tangible, whether new or used;
    - A) Tangible property includes objects or things that are physically capable of being touched and seen and over which



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a person may assert rights of ownership.

B) Tangible property consists of personalty or realty and includes such items as buildings, structural components of buildings, machinery, equipment and vehicles.

C) Items such as stock certificates, bonds, notes and the like are not tangible personal property. While the certificate or paper may be tangible, the item itself, the share of ownership of a corporation or the promise to pay is an intangible that is memorialized by the paper.

D) The terms "new or used" shall have their commonly ascribed meanings.

2) depreciable pursuant to IRC Section 167, except that "3-year property" as defined in IRC Section 168 is not eligible for the credit provided by IITA Section 201(h);

A) Depreciable property is property used in the trade or business of a taxpayer, or held for production of income, which is subject to wear and tear, exhaustion, or obsolescence.

B) Property that is depreciated under the Modified Accelerated Cost Recovery System (MACRS), as provided by IRC Section 168, is considered depreciable pursuant to IRC Section 167 for purposes of the Enterprise Zone Investment Credit.

C) Examples of tangible property that is not depreciable include land, inventories or stock-in-trade, natural resources, and coin or currency.

D) The provisions of Internal Revenue Service regulation Section 1.167(a)-4 will be utilized in making determinations as to whether particular leasehold improvements are depreciable.

3) acquired by purchase as defined in IRC Section 179(d); and

A) A purchase is any acquisition of property except:

i) an acquisition from a person whose relationship to the acquiring person is such that a resulting loss would be disallowed under IRC Sections 267 or 707(b);

ii) an acquisition by one component member of a controlled group from another component member of the group;

iii) an acquisition of property if the basis of the property in the hands of the person acquiring it is determined in whole or in part by its adjusted basis in the hands of the person from whom the property was acquired; or

iv) an acquisition of property, the basis of which is determined under IRC Section 1014(a). IRC Section 1014(a) covers property received from a decedent. Property acquired by bequest or demise is not acquired by purchase.

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B) For purposes of determining whether property is acquired by purchase as defined by IRC 179(d), the family of an individual includes only his spouse and ancestral and lineal descendants of the individual and his spouse.

C) For purposes of determining whether property is acquired by purchase only, a controlled group has the same meaning as in IRC Section 1563(a), except stock ownership of only 50% or more is required (also see IRS Regulation Section 1.179-4(f)).

D) Property that the taxpayer constructs, reconstructs or erects is generally considered acquired by purchase.

4) not eligible for the Enterprise Zone Investment Credit provided by IITA Section 201(f).

E) The basis of qualified property shall be the basis used to compute the depreciation deduction for federal income tax purposes.

1) In computing the amount of credit available for a taxable year, the credit rate will be applied to the total basis of all qualified property that is placed in service by a high impact business located in a foreign trade zone or sub-zone in Illinois during the taxable year, provided the property continues to qualify on the last day of the taxable year.

2) If the basis of the property for federal income tax depreciation purposes is increased after it has been placed in service in a federally designated foreign trade zone or sub-zone located in Illinois by the taxpayer, the amount of such increase shall be deemed property placed in service on the date of such increase in basis.

3) Property that has been fully expensed under IRC Section 179 has no federal depreciable basis with which to compute the credit. Property not fully expensed under IRC 179 can still qualify for the credit.

g) The term "placed in service" shall have the same meaning as under IRC Section 46. (IITA Section 201(h)(5)). Property is placed in service for purposes of the credit in the earlier of the following years:

1) That in which, under the taxpayer's depreciation practice, depreciation begins on the property; or

2) That in which the property is placed in a condition or state of readiness and availability for a specifically assigned function.

h) If, during any taxable year, any property ceases to be qualified property in the hands of the taxpayer within 48 months after being placed in service in a foreign trade zone or sub-zone, or the situs of any qualified property is moved outside Illinois within 48 months after being placed in service, the tax imposed under IITA Section 201(a) and (b) of this Section for such taxable year shall



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be increased.

1) Any property disposed of by the taxpayer within 48 months after being placed in service ceases to qualify.

A) A taxpayer disposes of property when he sells the property, exchanges or trades-in worn-out property for new property, abandons the property or retires it from use.

B) Property destroyed by casualty, stolen, or transferred as a gift is disposed of property.

C) Property that is mortgaged or used as security for a loan is not disposed of property, provided that the taxpayer continues to use the property in its business within a foreign trade zone or subzone located in Illinois.

D) Property transferred to a trustee in bankruptcy is considered disposed of property.

E) A transfer of property by foreclosure is a disposition of property.

F) A reduction in the basis of qualified property resulting from a redetermination of the purchase price of the property is a disposition of property to the extent of such reduction in basis in the year in which the reduction takes place. For example, this would occur when property is purchased and placed in service in one year, and in a later year the taxpayer receives a refund of a portion of the original purchase price.

2) Any property converted to personal use ceases to qualify for the credit.

3) The increase in tax shall be determined by:

A) recomputing the investment credit which would have been allowed for the year in which credit for such property was originally allowed by eliminating such property from such computation, and

B) subtracting such computed credit from the amount of credit previously allowed. The difference between the recomputed credit and the credit actually claimed is added to the income tax for year in which the property ceased to qualify.

EXAMPLE: In 1990, High Impact Business A places qualifying property with a basis of \$55,000 into service in Illinois and computes a credit for the year of \$275 (\$55,000 x .5%). High Impact Business A's 1990 income tax is \$275. After application of the credit, High Impact Business A has no remaining income tax liability. In the following year, High Impact Business A moved a qualifying asset having a basis of \$5,000 from Illinois to Missouri and is required to recapture a portion of the credit applied against its 1990 income tax liability. The credit applied against High Impact Business

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A's income tax must be recaptured because the property was moved outside of Illinois and no longer qualifies for the credit. In order to determine its additional income tax for 1991, High Impact Business A must recompute its 1990 credit by eliminating the disqualified property (\$55,000 - \$5,000 x .5% = \$250). This recomputed credit is subtracted from the credit actually used in 1990 against the income tax (\$275 - \$250 = \$25) and the difference is added to High Impact Business A's 1991 income tax.

(Source: Added at 19 Ill. Reg. **18391**, effective  
**FEB 06 1995**)

## Section 100.2140 Credit Against Income Tax for Replacement Tax (IITA 201(i))

a) Section 201(c) imposes the Personal Property Tax Replacement Income Tax. This tax is measured by net income of every corporation (including Sub-chapter S corporations), partnership and trust, for each taxable year. The tax is imposed on the privilege of earning or receiving income in this State. The tax is in addition to the income tax imposed under IITA Sections 201(a) and (b). IITA Section 201(d) lists the tax rates for the Personal Property Tax Replacement Income Tax.

b) A credit is allowed against the Income Tax for Personal Property Tax Replacement Income Tax.

1) For tax years ending before January 1, 1989, the credit is computed by multiplying the tax imposed by IITA Sections 201(c) and (d) by the apportionment percentage (or by 1 if the entity is non-apportioning). The result is further multiplied by the tax rate imposed by IITA Sections 201(a) and (b).

2) For tax years ending on or after January 1, 1989, the credit is computed by multiplying the tax imposed by IITA Sections 201(c) and (d) by a fraction, the numerator of which is base income allocable to Illinois and the denominator of which is Illinois base income. The result is further multiplied by the tax rate imposed by IITA Sections 201(a) and (b).

c) Any credit earned on or after December 31, 1986, under this subsection which is unused in the year the credit is computed because it exceeds the tax liability imposed under IITA Sections 201(a) and (b) for that year (whether it exceeds the original liability or the liability as later amended) may be carried forward and applied to the tax liability imposed by IITA Sections 201(a) and (b) for the 5 taxable years following the excess credit year. The credit shall be applied first to the earliest year for which there is a liability. If there is a credit for more than one tax year that is available to offset a liability, the earliest credit shall be applied first.

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is carried forward to a given year from 2 or more earlier years, that credit arising in the earliest year is applied first. If a tax liability for the given year remains, the credit from the next earliest year is applied. Any remaining unused credit or credits can be carried forward to the next following year in which a tax liability exists. However, the credit can only be carried forward 5 years from the year in which the taxpayer incurred the expense for which the credit was given. Any unused credit is then forfeited.

g) Combined returns. In the case of taxpayers filing combined returns, Section 100.5270(d) of this Part details the manner in which the credit is determined.

(Source: Added at 19 Ill. Reg. **1839**, effective **FEB 06 1995**)

Section 100.2170 Tax Credits for Coal Research and Coal Utilization Equipment (IITA 206)

a) Until January 1, 1995, each corporation subject to the Illinois Income Tax Act shall be entitled to a credit against the tax imposed under IITA Sections 201(a) and (b) in an amount equal to 20% of the amount donated to the Illinois Center for Research on Sulfur in Coal (IITA Section 206).

b) Until January 1, 1995, each corporation subject to the Illinois Income Tax Act shall be entitled to a credit against the tax imposed under IITA Sections 201(a) and (b) in an amount equal to 5% of the amount spent during the taxable year by the corporation on equipment purchased for the purpose of maintaining or increasing the use of Illinois coal at any Illinois facility owned, leased or operated by the corporation.

1) Such equipment shall be limited to direct coal combustion equipment and pollution control equipment necessary thereto.

2) For purposes of this credit, the amount spent on qualifying equipment shall be defined as the basis of the equipment used to compute the depreciation deduction for federal income tax purposes. This amount spent is the adjusted basis of each item of equipment as determined pursuant to IRC 167(g). Generally, the adjusted basis will be the purchase price of the property plus any capital expenditures less any rebates (IITA Section 206).

c) The credit shall be allowed for the tax year in which the amount is donated or the equipment purchased is placed in service, or, if the amount of the credit exceeds the tax liability for that year, whether it exceeds the original liability or the liability as later amended, such excess may be carried forward and applied to the tax liability of the 5 taxable years following the excess credit

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d) If, during any taxable year, the tax imposed by IITA Sections 201(c) and (d) for which a taxpayer has claimed the credit is reduced, the amount of credit for such tax shall also be reduced. Such reduction shall be determined by recomputing the credit to take into account the reduced tax imposed by IITA Sections 201(c) and (d). If any portion of the reduced amount of credit has been carried forward to a different taxable year, an amended return shall be filed for such taxable year to reduce the amount of credit claimed.

(Source: Added at 19 Ill. Reg. **1839**, effective **FEB 06 1995**)

Section 100.2160 Research and Development Credit (IITA 201(k))

a) Beginning with tax years ending after July 1, 1990, a taxpayer shall be allowed a credit against the tax imposed by IITA Sections 201(a) and (b) for increasing research activities in this State (IITA 201(k)).

b) The credit allowed shall be equal to 6 1/2% of the qualifying expenditures for increasing research activities in this State (IITA Section 201(k)).

c) Not all "research" will qualify for the credit. Nor will every expenditure associated with research qualify for the credit. Qualified research is defined in IRC Section 41(d). Qualifying expenditures means the qualifying expenditures as defined for the federal credit for increasing research activities which would be allowable under IRC Section 41 and which are conducted in this State.

1) IRC Section 41(b) defines "qualifying research expenses" as the sum of the in-house research expenses and the contract research expenses paid or incurred by the taxpayer during the taxable year in carrying on any trade or business of the taxpayer.

2) Qualifying expenditures also include basic research payments. Basic research payments are defined in IRC Section 41(e).

d) Qualifying expenditures for increasing research activities in this State means the excess of qualifying expenditures for the taxable year in which incurred over qualifying expenditures for the base period. Qualifying expenditures for the base period means the average of the qualifying expenditures for each year in the base period.

e) Base period means the 3 taxable years immediately preceding the taxable year for which the determination is being made.

f) Any credit in excess of the tax liability for the taxable year may be carried forward to offset the income tax liability of the taxpayer for the next 5 years or until it has been fully utilized, whichever occurs first (IITA Section 201(k)). If an unused credit



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years. The credit may not reduce a taxpayer's liability below zero, nor may excess credit be carried to another year for years ending prior to December 31, 1987. The credit shall be applied to the earliest year for which there is a liability. If there is credit from more than one tax year that is available to offset a liability, the earlier credit shall be applied first.

(Source: ~~Added~~ **FEB 06 1995** 19 Ill. Reg. **1839**, effective

## Section 100.2180 Credit for Residential Real Property Taxes (IITA 208)

a) Beginning with tax years ending on or after December 31, 1991, every individual taxpayer shall be entitled to a tax credit equal to 5% of real property taxes paid by such taxpayer during the taxable year on the principal residence of the taxpayer. In the case of multi-unit or multi-use structures and farm dwellings, the taxes on the taxpayer's principal residence shall be that portion of the total taxes which is attributable to such principal residence (IITA Section 208).

b) A taxpayer will qualify for the property tax credit if:

- 1) the taxpayer's principal residence during the year preceding the tax year at issue was in Illinois, and
- 2) the taxpayer owned the residence, and
- 3) the property tax billed in the tax year at issue has been paid. This is the amount paid after factoring in any applicable exemptions.

c) The credit may be based on the entire property tax bill if:

- 1) the taxpayer lived in the same residence during all of the year preceding the tax year at issue, and
- 2) the tax bill included property used only for the taxpayer's personal residence, yard, garage, or other structure used for personal purposes. If the property tax bill included not only taxpayer's personal residence, but also business, rental, or farm property, that credit may be calculated only on that portion of the property tax bill that is for the personal residence. The credit may not be taken for a vacation home.

Credit may not be taken for mobile home privilege tax.

d) If taxpayer sold a principal residence in the year preceding the tax year at issue, he or she may not take a credit for the tax year at issue. In such a situation, taxpayer will not have paid property taxes during the taxable year on his principal residence. Property taxes in Illinois are assessed on a property in one year and paid in the next year. In other words, in 1994 taxpayers pay 1993 taxes. In order to qualify for the credit granted by IITA Section 208 during 1994, a taxpayer must have ownership of an Illinois principal residence during 1993. An amount representing property taxes for the period of ownership of the taxpayer

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in the year preceding the tax year at issue will have been paid to the buyer of the taxpayer's former residence. Therefore, taxpayer will be authorized to take an additional amount of credit for property taxes paid to buyer upon sale of the residence in the year preceding the tax year at issue, but will have no credit in the subsequent year.

EXAMPLE: Taxpayer A sells his principal residence to B on July 1, 1991. Taxpayer A owned and resided in the principal residence for all of 1990, and for the first 6 months on 1991. Taxpayer A is entitled to a credit for residential real property taxes on his 1991 return in an amount equal to the amount of 1990 taxes paid in 1991. In addition, Taxpayer A is entitled to a credit for 6 months of the 1991 taxes which were paid over to B upon sale of the principal residence on July 1, 1991. Taxpayer A is not entitled to a credit for property taxes paid on this property on his 1992 return because no taxes were paid on this residence in 1992. However, if Taxpayer A bought another residence in 1991, Taxpayer A may calculate a credit for that portion of 1991 during which he owned and lived at the new property.

(Source: ~~Added~~ **FEB 06 1995** 19 Ill. Reg. **1839**, effective

## SUBPART F: BASE INCOME OF INDIVIDUALS

## Section 100.2590 Taxation of Certain Employees of Railroads, Motor Carriers, Air Carriers and Water Carriers

a) Federal law affects the authority of the State of Illinois to subject certain employees of railroads, motor carriers and air carriers to Illinois income taxation. By virtue of the provisions of federal law quoted in subsections (a)(1) through (3) below, compensation that would otherwise be subject to Illinois income taxation and withholding by virtue of IITA Sections 302(a) and 304(a)(2)(B) is subtracted from adjusted gross income in determining Illinois base income pursuant to IITA Section 203(a)(2)(N) and is not subject to Illinois income tax withholding. This subtraction is taken on form IL-1040 on the line entitled "Other subtractions." The statutory basis of the subtraction under Illinois law is IITA Section 203(a)(2)(N) which provides a subtraction from adjusted gross income for an amount equal to all amounts included in such total which are exempt from taxation by this State...by reason of the...statutes of the United States.

1) 49 U.S.C.A. 11504(a) states that no part of the compensation paid by a rail carrier subject to the jurisdiction of the Commission under subchapter I of chapter 105 of this title to





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constitute "compensation paid in" Illinois even though it meets the tests set forth in subsection (a)(1) above. For further discussion of these tests, see Section 100.7010(a), (d), (e) and (f), dealing with withholding.

3) Personal services under personal service contracts for sports performance

A) For purposes of subsection (a)(1)(A) above, *beginning with taxable years ending on or after December 31, 1992, for all persons who are members of professional sports teams that are residents of states that impose a comparable tax liability on all persons who are members of professional sports teams that are residents of this State . . . in the case of persons who perform personal services under personal service contracts for sports performance, services by that person at a sporting event taking place in Illinois shall be deemed to be a performance entirely within this State.* (IITA Section 304(a)(2)(B)) The amount of income constituting compensation paid in this State to such person shall be determined by multiplying the person's total compensation for performing such personal services by a fraction, the denominator of which contains the total number of duty days and the numerator of which is the number of duty days in Illinois during the taxable year.

B) The income of persons who engage in sports performance in Illinois, but do not perform personal services under personal services contracts of employment, remains apportionable to Illinois. Such income is business income, as defined by IITA Section 1501(a)(1) ~~of the Act~~ and Section 100.3010(a) of this Part. Also see IITA Section 304(a) and Section 100.3310 of this Part.

b) Compensation paid for past service

1) Where compensation is paid to a nonresident for past service, such compensation will, for the purpose of determining whether and to what extent such compensation is "paid in" Illinois and is allocated to Illinois under IITA Section 302(a), be presumed to have been earned ratably over the employee's last 5 years of service with the employer (or any predecessor or successor of the employer or a parent or subsidiary corporation of the employer), in the absence of clear and convincing evidence that such compensation is properly attributable to a different period of employment or that it was not earned ratably over the appropriate period of employment. Compensation earned in each past year will be deemed compensation paid in Illinois if the individual's service in such year met the tests set forth in subsection (a) above. Compensation paid for past service includes amounts paid under deferred compensation agreements where the amount of compensation is unrelated to the

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amount of service being currently rendered. Amounts paid to nonresidents under deferred compensation agreements may be allocated to Illinois under IITA Section 302(a) in accordance with this paragraph notwithstanding the fact that amounts paid to nonresidents under such agreements will be deemed not to be compensation paid in Illinois for purposes of IITA Section 701 and will not be subject to withholding (see Section 100.7010(g)).

2) The standards detailed in the previous subsection may be illustrated by the following examples:

A) A is a union member employed by B corporation as a factory worker. During the years 1965-1968, A was employed in B's factory in Illinois; in 1969, A worked in B's factory in State X. In 1970, as a result of union labor contract negotiations, A received a lump-sum payment of \$500 in lieu of a retroactive wage increase. A is at all times a resident of State X. Unless A establishes, by clear and convincing evidence, facts to support a different result, \$100 is deemed to have been earned in each of the 5 years 1965-1969. Further, \$400 is deemed to have been earned by service localized in Illinois and \$100 by service localized in State X (see subsection (a) above). Therefore, \$400 is allocable to Illinois under IITA Section 302(a).

3) The facts are the same as in the previous example except that A is able to establish that the \$500 constituted a wage increase retroactive to July 1, 1969. In such case, no part of the \$500 is allocable to Illinois, since it was earned by service in 1969 localized in State X.

C) C is a corporate executive. On January 1, 1965, C entered into an agreement with D corporation under which he was to be employed by D in an executive capacity for a period of 5 years. Under the contract C is entitled to a stated annual salary and to additional compensation of \$10,000 for each year, the additional compensation to be credited to a bookkeeping reserve account and deferred, accumulated and paid in annual installments of \$5,000 on C's retirement beginning January 1, 1970. In the event of C's death prior to exhaustion of the account, the balance is to be paid to C's personal representative. C is required to render consultative services to D when called upon after December 31, 1969. During 1970, C is paid \$5,000 while a resident of Florida. The \$5,000 is deemed to have been earned at the rate of \$1,000 in each of the years 1965-1969, since the amount paid is unrelated to C's current consultative services. Whether the \$1,000 earned in each such year is allocable to Illinois under IITA Section 302(a) must be determined



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by applying the tests set forth in subsection (a) above to each such year.

c) Exceptions to general allocation rules

- 1) While "compensation" may include items of income taken into account by a nonresident employee under the provisions of 26 U.S.C. 401 through 425 424, such as, for example, amounts received by a beneficiary of an employee's trust (taxable to the employee under 26 U.S.C. 402, whether the trust is exempt or non-exempt from federal income tax), or income resulting from a disqualifying disposition of stock acquired pursuant to the exercise of a qualified stock option (taxable to the employee under 26 U.S.C. 421(b) above), such compensation is not allocated under IITA Section 302(a). Such compensation is allocated under the rules of IITA Section 301(b)(2)(A), i.e., is not allocated to Illinois, whereas compensation which is allocated pursuant to IITA Section 302(a) is allocated to Illinois, if "paid in" this State (see subsections (a) and (b) above). Consequently, a nonresident claiming that compensation which would otherwise constitute compensation paid in Illinois should not be allocated to Illinois under IITA Section 301(b)(2)(A) must establish that such compensation was properly taken into account by such individual under the provisions of 26 U.S.C. 401 through 425 424.

2) Reciprocal exemptions

In any case ~~wherein~~ in which the Director has entered into an agreement with the taxing authorities of another state which imposes a tax on or measured by income to provide that compensation paid in such state to residents of Illinois shall be exempt from such tax, compensation paid in Illinois to residents of such state will not be allocated to Illinois.

- 3) Federal Law. Federal law affects the authority of the State of Illinois to subject certain employees of railroads, motor carriers and air carriers to Illinois income taxation, even though in the absence of specific federal provisions those employees would be subject to Illinois taxation by virtue of IITA Section 302(a).

A) Railroad employees. 49 U.S.C.A. 11504(a) provides that no part of the compensation paid by a rail carrier subject to the jurisdiction of the Interstate Commerce Commission under subchapter I of the chapter 105 of Title 49, to an employee who performs regularly assigned duties in more than one state shall be subject to the income tax laws of any state or subdivision of that state, other than the state or subdivision thereof of the employee's residence.

B) Motor carrier employees. 49 U.S.C.A. 11504(b)(1) states that no part of the compensation paid by a motor carrier subject to the jurisdiction of the Interstate Commerce

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Commission under subchapter II of chapter 105 of Title 49, or by a motor private carrier, to an employee who performs regularly assigned duties in 2 or more states as such an employee with respect to a motor vehicle shall be subject to the income tax laws of any state or subdivision of that state, other than the state or subdivision thereof of the employee's residence.

- C) Air carrier employees. 49 U.S.C.A. 1513(a) states that no part of the compensation paid by an air carrier to an employee who performs his regularly assigned duties as such an employee on an aircraft in more than one state shall be subject to the income tax laws or any state or subdivision thereof other than the state or subdivision thereof of such employee's residence and the state or subdivision thereof in which such employee earns more than 50% of the compensation paid by the carrier to such employee.

4) The standards set forth in this Section may be illustrated by the following examples:

A) A is a factory worker for B corporation which is located in Illinois. A resides in State X. When A reaches retirement age, he begins receiving a pension from the exempt trust under B's qualified pension plan. For federal income tax purposes, A properly takes his payments into account under the provisions of 26 U.S.C. 402(a)(4). Accordingly, under IITA Section 301(b)(2)(A) 301(c)(2)(A), A's payments are not allocated to Illinois.

B) The facts are the same as in the previous example except that B corporation does not fund its employees' pension benefits through the creation of a trust or the purchase of annuities, but pays retired employees each year out of corporate funds. For federal income tax purposes, A is required to take his payments into account under 26 U.S.C. 61(a), rather than under 26 U.S.C. 401 through 425 424. Accordingly, allocation of A's pension payments is governed by IITA Section 302(a) above (see subsections (a) and (b) of this Section).

- C) A is a locomotive engineer employed by Interstate railway. Interstate operates a rail yard in East St. Louis, Illinois. Interstate also operates out of St. Louis, Missouri, where it has a rail yard, as well as its administrative and payroll offices. A lives in St. Louis, Missouri. A is assigned to the East St. Louis rail yard and primarily reports to the East St. Louis rail yard of Interstate and drives locomotives for Interstate on trips that go throughout the United States. However, on occasion, A is required to report to the St. Louis, Missouri yard of Interstate and drive locomotives on trips that originate from St. Louis, Missouri. Pursuant to 49 U.S.C.A.



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111504(a), Interstate may only withhold, and A is only subject to, the Missouri personal income tax.

- D) A is an airline pilot for World-Wide Airlines. World-Wide provides passenger and freight service to various destinations throughout the United States from Lambert Field in St. Louis, Missouri, as well as from the municipal airport in Alton, Illinois. A lives in St. Louis, Missouri, but A reports to and flies out of the World-Wide terminal in Alton, Illinois. A primarily flies to destinations outside of Illinois. Less than 50% of A's compensation (as determined by flight time in Illinois versus flight time everywhere) (see 49 U.S.C.A. 1512(b)) is earned within Illinois. Therefore, by virtue of 49 U.S.C.A. 1512(a), A is only subject to Missouri income taxation on his compensation from World-Wide.

- E) The facts are the same as in the previous example, except that A pilots commuter planes between Alton and Chicago, Illinois. In this situation, A will be subject to Illinois income taxation by virtue of the fact that A earns more than 50% of his compensation within the State of Illinois.

(Source: Amended at 19 Ill. Reg. **1839**, effective **FEB 06 1995**)

## Section 100.7010 Compensation Paid in this State (ITA Section 701)

## a) General rules

- 1) Withholding is required with respect to "compensation paid in this State" - but see Section 100.7090 with regard to reciprocal withholding exemption agreements for employees residing in certain states. Illinois will recognize reciprocal withholding exemption agreements for those individuals subject to withholding by virtue of P.A. 87-880, to the extent that the state of residence of the team by which they are employed recognizes the reciprocal withholding exemption agreement with respect to individuals employed by teams with Illinois residence. The entire amount of such compensation is subject to withholding if withholding is required under Section 100.7000. The tests for determining whether compensation is paid in this State appear in ITA Section 304(a)(2)(B) and are substantially the same as those used to define "employment" in the Illinois Unemployment Compensation Act (1991-Rev. Stat. ch. 48, par. 3-30 et seq.) [820 ILCS 405/100 et seq.] (and similar unemployment compensation acts of other states). Compensation is paid in this State if:

- A) The individual's service is localized in this State because it is performed entirely within this State;

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- B) The individual's service is localized in this State although it is performed both within and without this State, because the service performed without this State is incidental to the individual's service performed within this State; or
- C) The individual's service is not localized in any state but some of the service is performed within this State and either: the base of operations, or if there is not a base of operations, the place from which the service is directed or controlled is within this State, or the base of operations of the place from which the service is directed or controlled is not in any state in which some part of the service is performed, but the individual's residence is in this State.

- D) For purposes of subsection (a)(1)(A), beginning with taxable years ending on or after December 31, 1992, for all persons who are members of professional sports teams that are residents of states that impose a comparable tax liability on all persons who are members of professional sports teams that are residents of this State, . . . , in the case of persons who perform personal services under personal service contracts for sports performances, services by that person at a sporting event taking place in Illinois shall be deemed to be a performance entirely within this State. (ITA Section 304(a)(2)(B))

- 2) The foregoing rules are to be applied in such manner that, if they were in effect in other states, an item of compensation would constitute "compensation paid in" only one state. Thus, if an item would, under these rules, constitute compensation paid in a state other than Illinois because the individual's service was localized in such other state under the test of subsection (a)(1)(A) above, it could not also be compensation paid in Illinois.

## b) Place of residence of employee

- 1) Except in the limited circumstance circumstances referred to in subsection (a)(1)(C) above and subsections (b)(2) and (3) below, the place of residence of any employee is irrelevant to the determination of "compensation paid in this State", and is, therefore, irrelevant to the determination of whether withholding is required with respect to such employee. However, compensation paid to residents of a state with which Illinois has entered into a reciprocal agreement (see Section 100.7090) is exempt from withholding.

- 2) Federal law affects the authority of the State of Illinois to subject certain employees of railroads, motor carriers and air carriers to Illinois income taxation and withholding. See Section 100.2590 which provides that certain employees of rail carriers, motor carriers and air carriers may only be subject to

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the income tax laws of any state or subdivision of that state of the employee's residence.

- 3) Income tax from employees of certain water carriers. 49 U.S.C.A. 11108 states that wages due or accruing to a master or seaman on a vessel in the foreign, coastwise, intercoastal, interstate, or noncontiguous trade or an individual employed on a fishing vessel or any fish processing vessel may not be withheld under the tax laws of a state or a political subdivision of a state. However, this Section does not prohibit withholding wages of a seaman on a vessel in the coastwise trade between ports in the same state if the withholding is under a voluntary agreement between the seaman and employer of the seaman. It should be noted that this provision affects only the authority of this state to have Illinois income tax withheld from wages of these employees. It does not affect the obligation of these employees to pay Illinois income taxes or to make payments of estimated income taxes as required under ITA Section 803.

## c) Localization tests

- 1) If compensation is paid in this State because the service is localized here under either of the tests set forth in subsection (a)(1)(A) and (B) above, no other factors need be considered. In such cases, the place of the base of operations, the place from which the service is directed or controlled, and the place of the individual's residence are all irrelevant. (But see Section 100.7090.)

- 2) In determining whether an individual's service performed without this State is incidental to his service performed within this State for purposes of the test set forth in subsection (a)(1)(B) above, the term "incidental" means any service which is necessary to or supportive of the primary service performed by the employee or which is temporary or transitory in nature or consists of isolated transactions. The incidental service referred to above may or may not be similar to the individual's normal occupation so long as it is performed within the same employer-employee relationship. That is, an individual who normally performs all of his service in this State may be sent by his employer to another state to perform service which is totally different in nature from his usual work or he may be sent to do similar work. So long as such service is temporary or consists merely of isolated transactions, it will be considered to be incidental to his service performed within this State, and his entire compensation will be subject to withholding.

- 3) In some cases, it may be difficult to determine whether service performed in another state is incidental to service performed within this State. In any such case, the facts

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(including any contract of employment) should be carefully considered. In many instances, the contract of employment will provide a definite territorial assignment which will be prima facie evidence that the service is localized within such territory. However, the presence or absence of a contract of employment is but one fact to be considered. In every case, the ultimate determination to be made is whether the individual's service was intended to be and was in fact principally performed within this State and whether any service which was performed in another state was of a temporary or transitory nature or arose out of special circumstances at infrequent intervals. The amount of time spent or the amount of service performed without this State should not be regarded as decisive, in itself, in determining whether such service is incidental to service performed within this State. For example, an individual normally performing service within this State might be sent on a special assignment to another state for a period of months. The service in the other state would nevertheless be incidental to service within this State if such special assignment were an isolated transaction.

## 4) This Section may be illustrated by the following examples:

- A) A is a resident of State X and is a salesman for the B Corporation, located in State Y. A's base of operations is his home in State X and his service is controlled from State Y. All of A's customers are located in Illinois. A's compensation is subject to withholding even though he is a nonresident with a State X base of operations, who is directed from State Y, because all of his service is performed in Illinois.
- B) A is a resident of State X and a salesman for the B Corporation, located in State X. A's territory covers the northern part of Illinois. Sporadically, A is requested by B Corporation to call on particular customers who are located in State X. The compensation for service which A performs in Illinois and State X is subject to withholding because the service performed in State X is incidental to the service performed in Illinois, since it consists of isolated transactions.
- C) The facts are the same as in the previous example except that A's regular territory covers several counties in Illinois and one or two towns in State X. A goes to the State X towns on a regular basis even though more than 95% of his time and sales are with reference to his Illinois territory. The compensation for service which A performs in Illinois and State X is not localized in Illinois within the meaning of subsection (a)(2) above because the service performed in State X is regular and

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permanent in nature and is not necessary to or supportive of sales made in Illinois. Whether withholding is required must therefore be determined under subsection (b) above (see subsections (d) and (e) above).

- D) A works for B construction company in Chicago. Occasionally the company obtains a construction job in State X which may last from one to several weeks. A is sent by the company to supervise the construction jobs in State X. The compensation for the service A performs in Illinois and State X is subject to withholding because the service performed in State X, being temporary in nature, is incidental to the service which he performs in Illinois.

- E) A is a resident of Illinois and a buyer for a department store located in State X. Regular buying trips by A to Illinois are incidental to the service performed in State X because they are necessary to and supportive of A's primary duties which are localized in State X and not in Illinois. Compensation for the services which A performs in Illinois and State X is not subject to withholding, notwithstanding that A being a resident, is taxable in Illinois on such compensation under IITA Sections 201 and 301(a).

## d) Base of operations

- 1) The localization tests are not applicable where an individual's employment normally or continually includes service within this State and also services without the State which are not "incidental" to the services performed within this State. In such case, if the individual's base of operations is within this State, his entire compensation will be subject to withholding, but if his base of operations is without this State, none of his compensation will be subject to withholding.

- 2) The term "base of operations" refers to the place or fixed center from which the individual works. An individual's base of operations may be his business office (which may be maintained in his home), or his contract of employment may specify a place at which the employee is to receive his directions and instructions. In the absence of more controlling factors, an individual's base of operations may be the place to which he has his business mail, supplies, and equipment sent or the place where he maintains his business records.

- 3) This Section may be illustrated by the following examples:

- A) A is a salesman for the B corporation located in Chicago. His territory includes Illinois, State X and State Y. A uses the corporation office in Chicago as a base of operations. The compensation for service

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performed by A is subject to withholding because the service is not localized in any of the three States in which it is performed, but part of the service is performed in Illinois and A's base of operations is in Illinois.

- B) A is a salesman for the B corporation located in Chicago. A lives in State X and his territory includes State X and part of Cook County, Illinois. A starts his sales calls from and returns to his home daily. He keeps a catalogue and copies of correspondence from customers at his home, and writes his sales reports there. About once a week he reports to B's sales office in Chicago for consultation with and directions from the sales manager. Communications from customers to A are addressed to the Chicago sales office. A's letters to customers are on letterheads bearing the Chicago sales office address and are sometimes typed by A at home and sometimes dictated by him to a stenographer when he is in the Chicago sales office. Correspondence to A and his paychecks are sometimes picked up by A in Chicago and otherwise are forwarded by the sales office to his home. The duties which A performs at home are sufficient to make his home his base of operations. A's compensation is therefore not subject to withholding because his base of operations is in State X, and part of his service is performed in that state.

- C) A, a resident of Illinois, sells products in Illinois, State X and State Y for B corporation, which is located in State Z. A operates from his home, where he receives instructions from his employer, communications from his customers, etc. Once a year, A goes to State Z for a 10 day sales meeting. All of A's compensation is subject to withholding; the service is not localized in any state but part of the service is performed in Illinois and A's base of operations is his home in Illinois.

- D) A works for a company whose home office is in State X. He is a regional director working out of a branch office in Illinois. He works mostly in Illinois but spends considerable time in State X. A's base of operations is the branch office in Illinois. Since he performs some service in Illinois and his base of operations is in Illinois, it is immaterial that his source of direction and control is in State X. All of A's compensation for service is subject to withholding.

- E) A, a resident of Illinois, is a salesman for the B corporation, which has its main office in State X. A works



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out of the main office and his territory is divided equally between State X and Illinois. A's compensation is not subject to withholding because his base of operations is in State X, and part of his service is performed in that State. A, an airplane pilot for B airline, lives in State X and regularly flies between Chicago and cities in other states. A does not have an office but reports to a flight operations office in Chicago which determines flight assignments for A and other pilots reporting to that office. A receives his paycheck and other company mail at the flight operations office in Chicago. A's base of operations is Illinois. He performs some service in Illinois and it is not "incidental" to service performed elsewhere. All of A's compensation for service is subject to withholding.

## e) Place of direction or control

1) The permanent place from which the employee's service is directed or controlled is relevant in determining whether wages are subject to withholding if the localization tests are not applicable and it is impossible to determine the base of operation for such individual. In such a case, if both the place from which the individual's service is directed or controlled is within this State, and some of the service is performed within this State, then his entire compensation will be subject to withholding, but if not, none of his compensation will be subject to withholding. For example, a salesman's territory may be so indefinite and so widespread that he will not retain any fixed business office or address but will receive his orders or instructions by mail or wire wherever he may happen to be. In such case, the location of the permanent place from which direction and control is exercised must be determined.

2) The previous subsection may be illustrated by the following examples:

A) A, a resident of State X, is employed as a salesman by B, a corporation with its main office in State Y. B has a permanent branch office and sales supervisor in Cairo, Illinois. A was hired by the branch office and sells merchandise for B in Illinois and other neighboring states as directed by the branch office in telephone calls but he has no place which he uses as a base of operations. All of the compensation for service performed by A for B is subject to withholding because A's service is not localized in any of the states in which he operates and he has no base of operations, but part of his service is performed in Illinois and the place from which the service is directed is in Illinois.

B) A is a salesman residing in State X, who works for a

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concern whose factory and selling office is in Chicago, Illinois. A's territory covers five states, including Illinois. He does not report, start from or return to the Chicago office or from his residence in State X. State X is the territory of another salesman. A does not have a base of operations but would be subject to withholding since part of his service is performed in Illinois and the place from which the service is directed is in Illinois.

C) A, a contractor whose main office is in Illinois, is regularly engaged in road construction work in Illinois and State X. All operations are under direction of a general superintendent whose permanent office is in Illinois. Work in each state is directly supervised by field supervisors working from temporary field offices located in each of the two states. Each field supervisor has the power to hire and fire personnel; however, all requests for manpower must be cleared through the Illinois office. Employees report for work at the field offices. Time cards are sent weekly to the main office in Illinois where the payrolls are prepared. A is hired by a field supervisor in State X; he regularly performs service in both Illinois and State X. In such case, neither the localization nor the base-of-operations test would apply, but A's compensation would be subject to withholding. Part of A's service is performed in Illinois and his service is regarded as controlled from Illinois because the permanent office from which basic direction and control emanates is the Illinois office.

## f) When residence is important

1) Residence is a factor in determining whether compensation paid to an individual is subject to withholding only when his service is not localized within some state; he performs no service in the state in which he has his base of operations (if he has a base of operations); and he performs no service in the state from which his service is directed or controlled. In such case, if the individual is a resident of this State, and some of his service is performed within this State, his entire compensation will be subject to withholding. However, compensation paid to residents of a state with which Illinois has entered into a reciprocal agreement (see Section 100.7090) is exempt from withholding.

2) Residence is also important in determining the Illinois income tax obligations of certain employees of railroads, motor carriers and air carriers (see Section 100.2590 of this Part and Subsection (b) above).

3) Subsection (f)(1) above may be illustrated by the following

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## example:

A is a salesman employed by the B company located in State X. His services are directed and controlled from the State X office and he has no base of operations. A lives in Illinois but his territory includes State Y and State Z as well as Illinois. All of A's wages are subject to withholding because no part of his service is performed in the state (State X) in which the place from which his services are directed is located, but part of his service is performed in Illinois and his residence is in Illinois.

## g) Deferred compensation

1) Under certain contractual unfunded deferred compensation agreements, payments are made by an employer to an employee for service rendered at an earlier date. In many such agreements, the employee receiving deferred compensation payments is not required to render any current service whatsoever, whereas in others he may be required to hold himself available to render advisory and consultative service, if called upon to do so, and to refrain from competition, but in either case, the amount of compensation is unrelated to any service being currently rendered. Payments made under any such deferred compensation agreement will be deemed to meet the tests set forth in subsection (a) above for compensation paid in Illinois if paid to the individual while a resident of this State. Conversely, payments made under such an agreement will be deemed not to be compensation paid in this State and will not be subject to withholding if paid to the individual while a nonresident. Amounts paid to nonresidents under deferred compensation agreements may be allocated to Illinois under IITA Section 302(a) in accordance with Section 100.3120(b)(1) notwithstanding the fact that such amounts will be deemed not to be compensation paid in Illinois for purposes of IITA Section 701 and will not be subject to withholding.

2) Subsection (g)(1) above may be illustrated by the following example:

A is a corporate executive. On January 1, 1965, A entered into an agreement with B corporation under which he was to be employed by B in an executive capacity for a period of 5 years. Under the contract A is entitled to a stated annual salary and to additional compensation to be credited to a bookkeeping reserve account and deferred, accumulated and paid in annual installments of \$5,000 on A's retirement beginning January 1, 1970. In the event of A's death prior to exhaustion of the account, the balance is to be paid to A's personal representative. A is not required to render any service to B after December 31, 1969. During 1970, A is paid \$5,000 while a resident of Illinois. This amount will be subject to withholding,

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because A's prior service will be deemed to have met one of the tests for compensation paid in Illinois.

(Source: Amended at 19 Ill. Reg. 18391, effective FEB 06 1995)

## SUBPART S: INFORMATION STATEMENT

## Section 100.7200 Reports For Employee (IITA Section 703)

a) In general. Every employer required to deduct and withhold tax under the Act from compensation of an employee, or who would have been required to deduct and withhold tax if the employee's properly claimed withholding exemption had not been in excess of compensation subject to withholding, must furnish to each such employee with respect to the compensation paid in Illinois by such employer during the calendar year, a statement in duplicate containing the following information:

- 1) The name, address and federal employer identification number of the employer;
- 2) The name, address and social security number of the employee;
- 3) The total amount of compensation paid in Illinois;
- 4) The total amount deducted and withheld as tax under IITA Section 701.

b) Form of statement. The information required to be furnished an employee under the preceding paragraph shall be furnished on an Internal Revenue Service combined Wage and Tax Statement, Form W-2, W-2g or 1099-R, hereinafter referred to as "combined W-2". Any reproduction, modification or substitution for a combined W-2 by the employer must be approved by the Department.

c) Time for furnishing statement.

- 1) In general. Each statement required by this section to be furnished for a calendar year, and each corrected statement required for any prior year shall be furnished to the employee on or before January 31 of the year succeeding such calendar year, or if an employee's employment is terminated before the close of a calendar year, without expectation that it will resume during the same calendar year, within 30 days from the day on which the last payment of compensation is made. (See 86--111--Adm--Code--100-7300(b)--for-provisions-relating-to-the-filing-of-copies-of--combined-W-2--with--the--Illinois Department--of--Revenue--)
- 2) Extension of time. An extension of time, not exceeding 30 days, for furnishing the statements required by this section will be granted without request upon the granting of a similar extension by the Internal Revenue Service or by regulation under the Internal Revenue Code. Any extension of time granted by

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reason of an extension by the Internal Revenue Service shall be substantiated by the employer maintaining a copy of such federal extension for inspection by the Department.

- d) Corrections. An employer must furnish a corrected combined W-2 to an employee if, after the original statement has been furnished, an error is discovered in either the amount of compensation shown to have been paid in Illinois for the prior year or the amount of tax shown to have been deducted and withheld in the prior year. Such statement shall be marked "corrected by the employer".

(See 96-1111-Adm-Code-100-7300(b)(4) for provisions relating to the filing of a corrected combined W-2 with the Department.)

- e) Undelivered combined W-2. Any employee's copy of the combined W-2 which, after reasonable effort, cannot be delivered to an employee, shall be retained by the employer for a period of three years from the date required by subsection (c)(1) above for furnishing the statement to the employee transmitted to the Department with a letter of explanation.

- f) Lost or destroyed. If the combined W-2 is lost or destroyed, the employer shall furnish two substitute copies to the employee and retain one copy which shall be made available to the Department upon written request. All such copies shall be clearly marked "Reissued by Employer".

- g) See Section 100.7300 below for rules concerning the recordkeeping requirements of employers.

(Source: Amended at 19 Ill. Reg. 1839, effective FEB 06 1995)

## SUBPART T: EMPLOYER'S RETURN AND PAYMENT OF TAX WITHHELD

## Section 100.7300 Returns of Income Tax Withheld From Wages (IITA Section 704)

- a) Quarterly returns. Except as otherwise provided in 96-1111-Adm-Code Section 100.7310 below, every employer required to deduct and withhold tax on compensation paid in Illinois shall make a return for the first calendar quarter in which such tax is deducted and withheld and for each subsequent calendar quarter (whether or not compensation is paid therein) until a final return is filed. Form IL-941, Employer's Quarterly Illinois Withholding Tax Return, is prescribed for making the return required under this paragraph. Monthly and quarter-monthly tax payments may also be required. See paragraphs subsections (c) and (d) below of this section. In some circumstances, only a single IL-941 an annual return and payment of withheld taxes will be required. See 96-1111-Adm-Code Section 100.7310 below.

- b) Department's Retention of copies of combined W-2.

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- 1) Every employer required under paragraph subsection (a) above of this section to make a return of tax withheld from compensation for a period ending December 31, or for any period for which a return is made as a final return, shall submit as part of such return the Department's retain a copy of each wage and tax statement on the combined W-2 required under 96-1111-Adm-Code Section 100.7200 above to be furnished by the employer with respect to compensation paid during the calendar year. Every employer shall maintain copies of the combined W-2 forms for three years from the due date of the IL-W-3 for that period. If the Department makes a written request for copies of the combined W-2 forms, the copies shall be forwarded to the Department within 30 days after the written request.

- 2) The copies of wage and tax statements for the current calendar year transmitted with the return required under paragraph (a) of this section shall be accompanied by an information statement on Form IL-W-3, Reconciliation of Illinois Income Tax Withheld and Transmitted of Wage and Tax Statements.

- 3) The copies of wage and tax statements for the current calendar year transmitted with Form IL-W-3 shall be accompanied by a list (preferably in the form of an adding machine tape) of the amount of tax withheld shown on such statements. If an employee's total payroll is made up on the basis of a number of separate units or establishments the statements may be assembled accordingly and a separate list or tape submitted for each unit in such case a summary list or tape should be submitted. The total of which will agree with the corresponding entry made on Form IL-W-3 is the number of statements to be submitted is larger they may be forwarded in packages of convenient size. When submitted in this manner the packages should be identified with the name of the employer and consecutively numbered and Form IL-W-3 should be placed in package. Not in the number of packages should be indicated immediately after the employer's name on Form IL-W-3.

- 2) 4) If an employer issues a corrected copy of a combined W-2 to an employee for a prior calendar year (see 96-1111-Adm-Code Section 100.7200(d) above), a copy shall be retained submitted to the Department on or before for a period of four years from the date fixed for filing the employer's return of tax withheld (Form IL-941) for the period ending December 31 of the year in which the correction is made, or for any period in such year for which the return is made as a final return. Such copies of the combined W-2 shall be accompanied by a statement explaining the corrections shall also be retained and, if the Department requests, a copy of the corrected W-2 shall be submitted within 30 days after the written request separately from the Department's copies of the combined W-2



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being submitted for the current calendar year.

- 3) Each year, the Department will contact a sample of Illinois employers and require those employers to provide copies of their employee W-2s. Employers chosen by the Department will be required to file W-2s in the same manner they are required to file W-2s federally.

A) Employers with more than 250 employees in the State of Illinois will be required to provide the W-2s on magnetic tape, diskette, or cartridge meeting the specifications required by the Social Security Administration (see 26 CFR 301.6011-2 (1994)).

B) All other employers may provide the W-2s on magnetic media or paper.

574) An extension of time for filing the providing statements requested by the Department required to be filed under this subsection shall be granted upon a showing of good cause approval of a similar extension granted by the Internal Revenue Service for filing the federal statements. The extension shall be for the same period as granted by the Internal Revenue Service but in no event to exceed six months and shall be granted by the Department upon submission of a copy of the federal application and approval of an extension.

c) Quarter-monthly tax payments. Effective January 1, 1986, and pursuant to P.A. 84-341, Every employer required to file a quarterly return under paragraph subsection (a) above of this Section shall also file a quarter-monthly tax payment form if the amount of tax deducted and withheld during any quarter-monthly period plus the amount previously withheld and not remitted to the Department exceeds \$1,000.00 (formerly \$500.00). An employer need not file a quarter-monthly form if no quarter-monthly payment is due. Form IL-501 is prescribed for use with the payments required under this paragraph. Quarter-monthly periods end on the 7th, 15th, 22nd and last day of each month. Certain taxpayers with tax liabilities exceeding statutory thresholds are required to pay their tax liabilities by electronic funds transfer. 86 Ill. Adm. Code 750 sets forth the rules of the Department concerning payment of taxes by electronic funds transfer, as well as the statutory payment thresholds.

d) Monthly tax payments. Effective January 1, 1986, and pursuant to P.A. 84-341, Every employer required to file a quarterly return under paragraph subsection (a) above of this Section shall also file a monthly tax payment form if the amount of tax deducted and withheld during any calendar month plus the amount previously withheld and not remitted to this Department exceeds \$500.00 (formerly \$100.00) including amounts previously withheld and not remitted to the Department, but does not exceed \$1,000.00 (formerly \$500.00). An employer need not file a monthly form if no monthly

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payment is due. No monthly form is required for the third month in any calendar quarter. The information otherwise required to be reported on the monthly form for the third month in a calendar quarter shall be reported on the quarterly return filed for that quarter and no monthly form need be filed for such month. Form IL-501 is prescribed for use with the payments required under this paragraph subsection.

(Source: Amended at 19 Ill. Reg. **1839**, effective **FEB 06 1995**)

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1) Heading of the Part: Uniform Penalty and Interest Act

2) Code Citation: 86 Ill. Adm. Code 700

3) Section Numbers: 700.300  
Adopted Action:  
Amendment

4) Statutory Authority: 35 ILCS 735

5) Effective Date of Rulemaking: February 6, 1995

6) Does this rulemaking contain an automatic repeal date? No

7) Does this rulemaking contain incorporations by reference? No.

8) Date Filed in Agency's Principal Office: February 6, 1995

9) Notice of Proposal Published in Illinois Register:  
June 24, 1994, 18 Ill. Reg. 9394

10) Has JCAR issued a Statement of Objections to these rules? No

11) Difference(s) between proposal and final version:  
The only changes involved punctuation.

12) Have all the changes agreed upon by the agency and JCAR been made as indicated in the agreement letter issued by JCAR? Yes

13) Will this rulemaking replace an emergency rule currently in effect? No

14) Are there any amendments pending on this Part? No

15) Summary and Purpose of Rulemaking:

Between the time this Part was originally drafted and the time this Part was proposed, P.A. 87-1189 amended the Uniform Penalty and Interest Act in a number of respects. When the draft rules were modified to incorporate the changes made by P.A. 87-1189, due to an oversight, the quote of UPIA Section 3-3(a) did not fully reflect the amendment of that Section by the Act. This rulemaking amends Section 700.300(a) to correct this error to conform the quote of statutory language to the exact language of the Uniform Penalty and Interest Act.

16) Information and questions regarding this adopted amendment shall be directed to:

Name: Keith Staats  
Address: Senior Counsel - Income Tax  
Illinois Department of Revenue

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Office of General Counsel Bureau  
101 West Jefferson  
Springfield, Illinois 62794  
Telephone: (217) 782-6336

The full text of the Adopted Amendment begins on the next page:

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TITLE 86: REVENUE  
CHAPTER I: DEPARTMENT OF REVENUEPART 700  
UNIFORM PENALTY AND INTEREST ACT

## SUBPART A: SCOPE AND APPLICATION OF THE ACT

Section 700.100 Scope of the Act and this Part  
700.110 Application of the Provisions of the Act and this Part

## SUBPART B: INTEREST

700.200 Interest Paid and Interest Charged  
700.210 Interest Rate Calculation  
700.220 Interest Charged Taxpayers  
700.230 Interest Paid Taxpayers on Overpayments

## SUBPART C: PENALTIES

700.300 Penalty for Late Filing or Failure to File and Penalty for Late Payment of Tax  
700.310 Penalty for Failure to File Correct Information Returns  
700.320 Penalty for Negligence  
700.330 Penalty for Fraud  
700.340 Personal Liability Penalty

## SUBPART D: REASONABLE CAUSE

700.400 Reasonable Cause

## SUBPART E: PAYMENT APPLICATION

700.500 Payment Application

AUTHORITY: Implementing the Uniform Penalty and Interest Act [35 ILCS 735], and authorized by Section 39b3 of the Civil Administrative Code of Illinois [20 ILCS 2502/39b3].

SOURCE: Adopted at 18 Ill. Reg. 1561, effective January 13, 1994; amended at 19 Ill. Reg. 1909, effective FEB 06 1995.

## SUBPART C: PENALTIES

Section 700.300 Penalty for Late Filing or Failure to File and Penalty for Late Payment of Tax

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a) A penalty of 5% of the tax required to be shown due on a return shall be imposed for failure to file any the tax return on or before the due date prescribed for filing determined with regard for any extension of time for filing (penalty for late filing or nonfiling).

1) If any unprocessable return is corrected and filed within 21 days after notice by the Department the late filing or nonfiling penalty shall not apply. (Section 3-3(a) of the Act) The unprocessable return must have been filed on or before the due date prescribed for filing of that return, with regard for any extension of filing. In other words, a taxpayer may not attempt to avoid the 5% penalty by the late filing of an unprocessable return which is then corrected within 21 days of notice by the Department.

2) A return, for purposes of the imposition of this penalty, is any return required by a tax Act to be filed with the Department that is not an information return as that term is defined in Section 3-4(c) of the Act.

EXAMPLE 1: A withholding agent files Form IL-941 (Employer's Quarterly Illinois Withholding Tax Return) for third quarter 1994 on November 1, 1994. The total Illinois tax withheld is \$500,000. The form was due on October 31, 1994. A late payment filing penalty is imposed as follows: Total Illinois tax withheld (\$500,000) times the 5% late filing penalty equals \$25,000.

EXAMPLE 2: A withholding agent files Form IL-W-3 (Reconciliation of Illinois Income Tax Withheld and Transmittal of Income and Tax Statements) for tax year 1993 on March 1, 1994. The total Illinois tax withheld is \$1,000,000. The form was due on February 28, 1994. A late filing penalty is imposed as follows: Total Illinois tax withheld (\$1,000,000) times the 5% late filing penalty is \$50,000.

3) If a penalty for late filing or nonfiling is imposed in addition to a penalty for late payment, the total penalty due shall be the sum of the late filing penalty and the applicable late payment penalty (Section 3-3(a) of the Act).

b) A penalty of 15% of the tax shown on the return or the tax required to be shown due on the return shall be imposed for failure to pay:

1) the tax shown due on the return on or before the due date prescribed for payment of that tax, an amount of underpayment of estimated tax, or an amount that is reported in an amended return other than an amended return timely filed as required by subsection (b) of Section 506 of the Illinois Income Tax Act (penalty for late payment or nonpayment of admitted liability); or

2) the full amount of any tax required to be shown due on a return and which is not shown (penalty for late payment or



## DEPARTMENT OF REVENUE

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nonpayment of additional liability), within 21 days after a notice of arithmetic error, notice and demand, or a final assessment is issued by the Department. In the case of a final assessment arising following a protest and hearing, the 21-day period shall not begin until all proceedings in court for review of the final assessment have terminated or the period for obtaining a review has expired without proceedings for a review having been instituted. In the case of a notice of tax liability that becomes a final assessment without a protest and hearing, the penalty provided in this Section shall be imposed at the expiration of the period provided for the filing of a protest. (Section 3-3(b) of the Act).

c) For purposes of the late payment penalties, the basis of the penalty shall be the tax shown or required to be shown on the return, whichever is applicable, reduced by any part of the tax which is paid on time and by any credit which was properly allowable on the date the return was required to be filed. (Section 3-3(c) of the Act) The amount of this late payment penalty, unlike some late payment penalties that were imposed prior to the adoption of the Uniform Penalty and Interest Act, does not change over time. The late payment penalty is the same whether payment is one day late, or one year late.

d) A penalty shall be applied to the tax required to be shown even if that amount is less than the tax shown on the return. (Section 3-3(d) of the Act)

EXAMPLE: A rentor of automobiles for periods of one year or less, has tax due under the Automobile Renting Occupation and Use Tax for the rental receipts received during the month of June 1994 on July 20, 1994. The tax shown on the return filed on July 20, 1994 is \$500, but the taxpayer remits no payment of the tax when the return is filed. On August 1, 1994 the taxpayer files an amended return reducing tax liability to \$400 and also remits \$400. Assuming that the \$400 amount shown on the amended return is correct, the taxpayer owes a late payment penalty on \$400, the amount required to be shown on the original return, not the \$500 amount that was shown on the original return.

e) If both a subsection (b)(1) penalty and a subsection (b)(2) penalty are assessed against the same return, the subsection (b)(2) penalty shall be assessed against only the additional tax found to be due. (Section 3-3(e) of the Act)

EXAMPLE: A withholding tax agent has tax due for the third quarter of 1994. The return is filed timely, with tax withheld of \$20,000, but on time payments only equal \$15,000 leaving a tax balance due of \$5,000. The late payment penalty applicable on November 1, 1994 is \$750. Full payment of tax is made on March 15, 1995. On October 1, 1997, an audit is completed increasing tax to \$30,000. Additional late payment

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penalty is \$1500 (\$30,000 minus the original \$20,000 equals \$10,000 tax due times 15% equals \$1500 late payment penalty). The total late payment penalty is \$2250.

- f) If the taxpayer has failed to file the return, the Department shall determine the correct tax according to its best judgment and information, which amount shall be prima facie evidence of the correctness of the tax due. (Section 3-3(f) of the Act)
- g) The time within which to file a return or pay an amount of tax due without imposition of a penalty does not extend the time within which to file a protest to a notice of tax liability or a notice of deficiency. (Section 3-3(g) of the Act)

(Source: Amended at 19 Ill. Reg. 1909, effective FEB 06 1995)

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- 1) Heading of the Part: Uniform Partnership Act
- 2) Code Citation: 14 Ill. Adm. Code 165
- 3) 

<u>Section Number(s):</u>	<u>Adopted Action:</u>
165.10	New Section
165.20	New Section
165.30	New Section
165.40	New Section
165.50	New Section
165.60	New Section
165.70	New Section
165.80	New Section
165.90	New Section
- 4) Statutory Authority: Implementing and authorized by the Uniform Partnership Act [805 ILCS 205/1 et seq.]
- 5) Effective Date of Amendment: February 15, 1995
- 6) Does this rulemaking contain an automatic repeal date? No
- 7) Does this amendment contain incorporation by reference? No
- 8) Date filed in Agency's Principal Office: February 15, 1995
- 9) Notice of Proposal Published in Illinois Register: 18 Ill. Reg. 14686, September 30, 1994
- 10) Has JCAR issued a Statement of Objections to these amendments? No
- 11) Differences between proposal and final version:
  1. Placed all ILCS citations within brackets in the AUTHORITY and throughout the text of the rule.
  2. In Section 165.10 placed all definitions in alphabetical order.
  3. In Section 165.30(b) indented the address an additional 5 spaces.
  4. In Section 165.80(a) corrected the reference to "14 Ill. Adm. Code 150.Subpart A".
  5. In Section 165.90 labelled the paragraphs (a) and (b) and moved them to the proper indent levels.
  6. In Section 165.50 placed a comma after the words "Secretary of State".

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7. In Section 165.90(a), in first sentence substituted "the" for "this" before the word "Act".
8. In Section 165.90(a), in the first, fourth and fifth sentence, substituted "the" for "this" before the word "Act" and added "and this Part" following the word "Act".
9. In Section 165.90(b), capitalized the "s" in the word "state".
- 12) Have all the changes agreed upon by the agency and JCAR been made as indicated in the agreement letter issued by JCAR? Yes
- 13) Will these amendments replace an emergency amendment currently in effect?  
No
- 14) Are there any amendments pending on this Part? No
- 15) Summary and Purpose of Rules: These rules provide administrative guidelines for the creation, registration and filings of registered limited liability partnerships, a new business entity authorized by P.A. 88-0573.
- 16) Information and questions regarding these adopted amendments shall be directed to:  
Max Rockhold  
Department of Business Services  
Secretary of State's Office  
3 1/2 Howlett Building  
Springfield, Illinois 62756  
(217) 785-8960

The full text of the Adopted Amendment begins on the next page:

## SECRETARY OF STATE

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## TITLE 14: COMMERCE

## SUBTITLE A: REGULATION OF BUSINESS

## CHAPTER I: SECRETARY OF STATE

## PART 165

## UNIFORM PARTNERSHIP ACT

## Section

165.10 Definitions  
 165.20 Applicability  
 165.30 Filing Locations  
 165.40 Business Hours  
 165.50 Fees  
 165.60 Forms Requirements  
 165.70 Service of Process  
 165.80 Right to Counsel  
 165.90 Interrogatories

AUTHORITY: Implementing and authorized by the Uniform Partnership Act [805 ILCS 205].

SOURCE: Adopted at 19 Ill. Reg. 1915, effective FEB 15 1995.

## Section 165.10 Definitions

In addition to the definitions contained in Section 2 of the Uniform Partnership Act [805 ILCS 205/2] the following definitions shall apply:

"Department" shall mean the Department of Business Services of the Office of the Secretary of State.

"Director" shall mean the Director of the Department of Business Services.

"Interrogatories" shall mean a written request for information to ascertain whether the limited liability partnership has complied with the provisions of the UPA.

"RLLP" shall mean Registered Limited Liability Partnership.

"Secretary" shall mean the Secretary of State of Illinois.

"UPA" shall mean the Uniform Partnership Act [805 ILCS 205].

"UPA Division" shall mean that unit of the Department which administers the provisions of the UPA.

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## Section 165.20 Applicability

The provisions of this Part shall be applicable to all registered limited liability partnerships which are, will or may become subject to the provisions of the UPA.

## Section 165.30 Filing Locations

- a) All documents required to be filed with the Secretary of State pursuant to the UPA shall be filed with the Department.
- b) Documents submitted for filing in Springfield, the Department's headquarters, shall be filed at the following address.

Department of Business Services  
 Uniform Partnership Division  
 Room 357, Howlett Building  
 Springfield, Illinois 62756

- c) Documents submitted by mail for filing should be sent to the Department's Springfield office.

## Section 165.40 Business Hours

The Department of Business Services' business hours in Springfield are 8:00 a.m. to 4:30 p.m., Monday through Friday, except holidays.

## Section 165.50 Fees

All documents required by this Act to be filed in the Office of the Secretary of State must include the fees set forth in the UPA. All fees for filing of any document, or copies of any document, shall be paid only by money order, certified check, cashier's check, or a check drawn on the account of an Illinois licensed attorney or certified public accountant, made payable to the "Secretary of State," or by approved credit card. No refund of any fees shall be paid by the Department.

## Section 165.60 Forms Requirements

- a) All documents required by this Act to be filed in the Office of the Secretary of State shall be made on forms prescribed and furnished by the Secretary of State.
- b) All documents required by this Act to be filed in the Office of the Secretary of State shall contain the federal employer identification number of the registered limited liability partnership with respect to which the document is filed.
- c) All attachments submitted by a registered limited liability partnership shall be typewritten or printed on 8 1/2 x 11 white paper.



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**Section 165.70 Service of Process**

- a) For the purposes of Section 8.1 of the UPA, the procedures set forth in this Section shall apply.
- b) Any process, notice or demand to be served under this Part shall be made upon the Secretary, the Director, or any employee of the Department designated by the Director to accept such service for him or her, in the following manner:

- 1) Service shall comply with the provisions of Part 2 of the Civil Practice Law [735 ILCS 5/Part 2], the Federal Rules of Civil Procedure (2B USCA), or any administrative rule of service, as may be appropriate.
- 2) An affidavit of compliance in the form prescribed and furnished by the Secretary of State must be appended to the process, notice or demand to be served, contain the information described in this subsection (b) herein, be signed by the person instituting the action, suit or proceeding or by an attorney of record, and the signature of the affiant, without more, shall constitute the affirmation or acknowledgement, under penalties of perjury, that the affidavit is the act or deed of the affiant and that the facts stated therein are true.
- c) Each process, notice or demand shall be submitted with a separate payment fee.
- d) The Department of Business Services shall maintain original file copies which shall be in paper form or an acceptable archival medium, and originals may be discarded upon verification of archival medium (microfilm or electronic imaging) and upon approval by the State Records Commission [5 ILCS 160/16].

**Section 165.80 Right to Counsel**

- a) Hearing procedures will be governed by 14 Ill. Adm. Code 150.Subpart A.
- b) Any party may appear and be heard through an attorney at law licensed to practice in the State of Illinois.
  - 1) Attorneys admitted to practice in states other than the State of Illinois may appear and be heard by special leave of the hearing officer appointed to conduct the hearing, upon the attorney's verbal representation or written documentation as to the attorney's admission to the practice of law.
  - 2) A natural person may appear and be heard on his or her own behalf.
  - 3) A corporation, association, or partnership may appear and present evidence by any bonafide officer, employee or representative.
- c) Only an attorney properly licensed shall represent anyone else in any hearing in any matter involving the exercise of legal skill or knowledge. The standards of conduct shall be the same as before the Courts of the State of Illinois.

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- d) A hearing officer may be disqualified from presiding over a hearing wherein the hearing officer has an ethical conflict of interest or has an economic interest in the outcome of the proceeding.

**Section 165.90 Interrogatories**

- a) The Secretary of State may propound to any registered limited liability partnership subject to the provisions of the Act, and to any partner, such interrogatories as may be reasonably necessary and proper to enable the Secretary of State to ascertain whether the registered limited liability partnership has complied with all the applicable provisions of the Act and this Part. The interrogatories shall be answered within 30 days after the mailing thereof, or within such additional time as shall be fixed by the Secretary of State, and the answers thereto shall be full and complete and shall be made in writing and under oath. If the interrogatories are directed to a person, they shall be answered by him or her, and if directed to a registered limited liability partnership, they shall be answered by the managing partner/s or management committee thereof. The Secretary of State need not file any document to which the interrogatories relate until the interrogatories are answered as herein provided and not then if the answers thereto disclose that the document is not in conformity with the provisions of the Act and this Part. The Secretary of State shall certify to the Attorney General, for such action as the Attorney General may deem appropriate, all interrogatories and answers thereto that disclose a violation of any of the provisions of the Act and this Part.
- b) Interrogatories propounded by the Secretary of State and the answers thereto shall not be open to public inspection, nor shall the Secretary of State disclose any facts or information obtained therefrom, except insofar as official duty may require them to be made public or in the event the interrogatories or the answers thereto are required for evidence in any criminal proceeding or in any other action by the State.

## ILLINOIS HOUSING DEVELOPMENT AUTHORITY

## NOTICE OF EMERGENCY RULES

- 1) Heading of the Part: Affordable Housing Bond Program - Single Family

- 2) Code Citation: 47 Ill. Adm. Code 366

- 3) Section Numbers:

<u>Section Numbers:</u>	<u>Proposed Action:</u>
366.101	New Section
366.102	New Section
366.103	New Section
366.104	New Section
366.105	New Section
366.106	New Section
366.107	New Section
366.108	New Section
366.109	New Section
366.110	New Section
366.111	New Section
366.112	New Section
366.113	New Section
366.201	New Section
366.202	New Section
366.203	New Section
366.301	New Section
366.302	New Section
366.303	New Section
366.401	New Section
366.402	New Section
366.403	New Section
366.404	New Section
366.405	New Section
366.501	New Section
366.502	New Section
366.503	New Section
366.504	New Section
366.601	New Section
366.602	New Section
366.603	New Section
366.604	New Section

- 4) Statutory Authority: Sections 7.19 and 7.25 of the Illinois Housing Development Act [20 ILCS 3805/7.19 and 7.25] and Sections 4 and 7(e) of the Illinois Affordable Housing Act [310 ILCS 65/4 and 7(e)].

- 5) Effective Date of Rule: February 6, 1995

- 6) If this emergency rule is to expire before the end of the 150-day period, please specify the date on which they expire:

- 7) Date Filed in Agency's Principal Office: December 16, 1994

## ILLINOIS HOUSING DEVELOPMENT AUTHORITY

## NOTICE OF EMERGENCY RULES

- 8) Reason for Emergency: The Illinois General Assembly recently amended the Illinois Affordable Housing Act (the "Act") and the Illinois Housing Development Act to address the severe shortage of affordable, decent, safe and sanitary housing for Illinois' low and very-low income persons. The critical need for affordable housing requires that this Part be submitted on an emergency basis.

- 9) A Complete Description of the Subjects and Issues Involved: These emergency rules establish the procedures for operation of the single family portion of the Affordable Housing Bond Program (the "Program"). The Program was created for the making of loans and grants to acquire, construct, rehabilitate, develop, operate, insure and retain affordable single-family and multi-family housing for low-income and very low-income households.

- 10) Are there any proposed amendments to this Part Pending? Yes, these same rules are simultaneously being proposed on a non-emergency basis.

- 11) Statement of Statewide Policy Objectives: These emergency rules create a statewide program that creates and retains single-family affordable housing for low-income and very low-income households.

- 12) Information and questions regarding these rules shall be directed to:

Name: Richard B. Muller  
 Address: 401 N. Michigan Ave., Suite 900  
 Chicago, Illinois 60611  
 Telephone: (312)836-5200

The full text of the emergency rules begins on the next page:

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TITLE 47: HOUSING AND COMMUNITY DEVELOPMENT  
CHAPTER II: ILLINOIS HOUSING DEVELOPMENT AUTHORITY

PART 366

AFFORDABLE HOUSING BOND PROGRAM - SINGLE FAMILY

## SUBPART A: GENERAL RULES

Section  
366.101 Authority  
EMERGENCY  
366.102 Purpose and Objectives  
EMERGENCY  
366.103 Definitions  
EMERGENCY  
366.104 Borrowing by the Authority  
EMERGENCY  
366.105 Standards  
EMERGENCY  
366.106 Forms and Procedures for the Program  
EMERGENCY  
366.107 Fees and Charges of the Authority  
EMERGENCY  
366.108 Waiver  
EMERGENCY  
366.109 Amendment  
EMERGENCY  
366.110 Severability  
EMERGENCY  
366.111 Gender and Number  
EMERGENCY  
366.112 Titles and Captions  
EMERGENCY  
366.113 Calendar Days  
EMERGENCY

## SUBPART B: APPROVAL OF SINGLE FAMILY PROGRAMS

Section  
366.201 Establishment of Single Family Program  
EMERGENCY  
366.202 Staff Recommendation to the Advisory Commission  
EMERGENCY  
366.203 Authority Determination  
EMERGENCY

## SUBPART C: LENDER APPLICATION PROCESS

## ILLINOIS HOUSING DEVELOPMENT AUTHORITY

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Section  
366.301 Invitations to Sell Loans  
EMERGENCY  
366.302 Notice of Acceptance  
EMERGENCY  
366.303 Commitments for Loans  
EMERGENCY

SUBPART D: HOMEBUILDER APPLICATION PROCESS

Section  
366.401 HomeBuilder Invitations  
EMERGENCY  
366.402 Reservation of Funds for Construction of Qualified Dwellings  
EMERGENCY  
366.403 Notice of Reservation of Funds  
EMERGENCY  
366.404 Real Estate Purchase Contracts  
EMERGENCY  
366.405 Transfer of Reserved Funds  
EMERGENCY

## SUBPART E: PURCHASE OF LOANS

Section  
366.501 Loans  
EMERGENCY  
366.502 Terms and Conditions of the Purchase of Loans  
EMERGENCY  
366.503 Mortgage Pool Insurance  
EMERGENCY  
366.504 Special Hazard Insurance  
EMERGENCY

## SUBPART F: ADMINISTRATIVE RULES

Section  
366.601 Servicing of Loans  
EMERGENCY  
366.602 Equal Opportunity Lending  
EMERGENCY  
366.603 Inspection of Books and Records  
EMERGENCY  
366.604 Termination  
EMERGENCY

AUTHORITY: Sections 7.19 and 7.25 of the Illinois Housing Development Act (20 ILCS 3805/7.19 and 7.25) and Sections 4 and 7(e) of the Illinois Affordable



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Housing Act [310 ILCS 65/4 and 7(e)].

SOURCE: Emergency Rules adopted at 19 Ill. Reg. **1921**, effective **FEB 06 1995**, for a maximum of 150 days.

## SUBPART A: GENERAL RULES

Section 366.101 Authority  
EMERGENCY

These rules are authorized by and made pursuant to the Illinois Housing Development Act (the "Act") [20 ILCS 3805], the Illinois Affordable Housing Act, [310 ILCS 65] (the "Affordable Housing Act") and Public Act 88-0093 and shall govern Program.

Section 366.102 Purposes and Objectives  
EMERGENCY

These rules are established to accomplish the general purposes of the Act and the Affordable Housing Act, and in particular the purchasing and making of loans in accordance with the Illinois Housing Development Authority's Affordable Housing Trust Fund Bond Program to achieve the following objectives: the provision of funds to finance, at interest rates below those otherwise available, residential mortgage loans for low and very low income persons and families, and the provision of housing to alleviate the shortage of adequate housing in the State for such persons and families that are residents of the State.

Section 366.103 Definitions  
EMERGENCY

As used in this Part, the following words or terms mean:

"Act": The Illinois Housing Development Act [20 ILCS 3805].

"Advisory Commission": The Illinois Affordable Housing Advisory Commission, established by and pursuant to Section 6(a) of the Affordable Housing Act.

"Affordable Housing Act": The Illinois Affordable Housing Act [310 ILCS 65].

"Assistant Director": The Assistant Director of the Authority.

"Authority": The Illinois Housing Development Authority.

"Bonds": The bonds issued by the Authority from time to time pursuant to the Act and a Resolution to finance the Program, including bonds

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issued from time to time to replace or refund Bonds or Notes previously issued.

"Commitment Fee": The fee that the Authority may require a prospective HomeBuilder to pay to the Authority at the time it submits its HomeBuilder Participation Agreement to the Authority for acceptance.

"Deputy Director": The Deputy Director of the Authority.

"Director": The Director of the Authority.

"Eligible Borrower": A person applying for a Loan in connection with the purchase of a Qualified Dwelling;

who is or will be a resident of the State within sixty (60) days after the closing of the Loan;

whose Household Income does not exceed the maximum Household Income for Low Income Households or Very Low Income Households, as applicable, for the area in which the Qualified Dwelling is located;

who intends to use the Qualified Dwelling being financed by the Loan as his or her permanent residence within sixty (60) days after the closing of the Loan, or in the case of a Loan for the purchase and rehabilitation of a Qualified Dwelling, within one hundred eighty (180) days of the closing of such Loan. A residence that is used as investment property or a recreational home, or that is primarily intended to be used in a trade or business (including, without limitation, any residence of which more than five percent (5%) of the total area is reasonably expected to be used primarily in a trade or business) does not satisfy the requirements of this subparagraph; and if applicable, meets the requirements of the FHA, RECD or USVA.

"FHA": The Federal Housing Administration.

"FHLMC": The Federal Home Loan Mortgage Corporation.

"FNMA": The Federal National Mortgage Association.

"HomeBuilder": An individual or entity approved by the Authority and that:

for the 12-month period preceding the date of its HomeBuilder Participation Agreement for participation in a Series Program had insurance coverage for product liability, worker's compensation

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and builder's risk; and

had constructed at least two buildings in that same preceding 12-month period or, in the alternative, had constructed at least four buildings in the 24-month period preceding the date of its HomeBuilder Participation Agreement for participation in a Series Program. An individual or entity that, for purposes of the Program, contracts with another individual or entity that is a HomeBuilder shall be considered a HomeBuilder.

"HomeBuilder Participation Agreement": The agreement between the Authority and a HomeBuilder pursuant to which the HomeBuilder agrees to construct new Qualified Dwellings for purchase by Eligible Borrowers, and the Authority agrees to purchase Loans financing such newly constructed Qualified Dwellings, under the terms and conditions set forth in such agreement.

"Household Income": The total annualized gross income of all persons residing or intending to reside as a single household in a Qualified Dwelling, from whatever source derived and before taxes or withholdings.

"Lender": A State-chartered bank, national banking association, mortgage banking association or institution, credit union, or State or federal savings and loan association:

that is located and qualified to do business in the State;

that is qualified to sell mortgages to FNMA and/or FHLMC (this requirement may be waived by the Director after determination that the assets of the lender exceed \$500,000, that the percentage of mortgage delinquencies in the lender's single family portfolio do not exceed 2.15 times the Statewide average, as determined by the last quarterly pronouncement by the United States Federal Home Loan Bank Board, and that the lender has an asset-to-liability ratio of at least 1.01/1);

whose deposits are insured by the Federal Deposit Insurance Corporation or the National Credit Union Administration, or that deposits its funds in State financial institutions whose deposits are insured by the Federal Deposit Insurance Corporation;

whose Lender Application under a Series Program has been accepted by the Director based upon the satisfaction of the requirements of that Series Program and a determination of financial suitability after consideration of the net assets, lending capacity, and experience of the lender over the past twelve (12) months in residential mortgage lending; and

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if applicable, has been approved by the FHA, RECD or USVA, as the case may be. The Authority may also be a Lender.

"Lender Application": A prospective Lender's application under a Series Program to sell Loans to the Authority pursuant to the terms of a Mortgage Purchase Agreement and other Series Program documents.

"Loan": A Loan made by a Lender to an Eligible Borrower for the purchase, or the purchase and rehabilitation, of a Qualified Dwelling that is secured by a Mortgage on such Qualified Dwelling.

"Low-Income Household": A single person, family or unrelated persons living together whose adjusted income is more than 50%, but less than 80%, of the median income of the area of residence, adjusted for family size, as such adjusted income and median income for the area are determined from time to time by the United States Department of Housing and Urban Development for purposes of Section 8 of the United States Housing Act of 1937 (42 U.S.C. 1437).

"Members": The Members of the Authority.

"Mortgage": The mortgage, or other instrument in the nature of a mortgage, creating a first mortgage lien on a fee interest in real estate, together with all supplements, modifications or amendments to it.

"Mortgage Purchase Agreement": The agreement between a Lender and the Authority that sets forth the general requirements for, and the general terms and conditions under which the Authority will purchase, Loans.

"Net Proceeds": With respect to the proceeds of each series of Bonds, all moneys made available by the Authority for the purchase of Loans.

"Notes": The notes issued by the Authority pursuant to the Act and a Resolution from time to time to finance the Program.

"Notice of Acceptance": The Authority's notice to a Lender accepting its Lender Application.

"Notice of Reservation of Funds": The Authority's notice to a HomeBuilder (1) accepting its HomeBuilder Participation Agreement and (2) setting forth the amount of the HomeBuilder's Reservation.

"Part": This Part 366.

"Pool Insurance": The policy or policies of insurance insuring the

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Authority's exposure for loss in connection with defaults on Loans purchased by the Authority under a Series Program. The Authority may provide Pool Insurance or its equivalent.

"Pool Insurer": The insurer that the Authority selects pursuant to bid to provide Pool Insurance, or reinsurance for Pool Insurance, for a Series Program. The Authority may be a Pool Insurer.

"Private Mortgage Insurance": Insurance coverage paid for by the Eligible Borrower that insures the Authority against losses with respect to defaults on a Loan according to the terms of the insurance policy.

"Program": The Illinois Affordable Housing Bond Program.

"Property Value": The lesser of the purchase price and the appraised value of the Qualified Dwelling at the time of the origination of the Loan secured by such Qualified Dwelling; or in the case of a Loan for the purchase and rehabilitation of a Qualified Dwelling, the lesser of the purchase price and 110% of the appraised value of the Qualified Dwelling after the completion of rehabilitation.

"Qualified Dwelling": A fee simple interest in a single family residence:

that is located in the State;

upon which there is located a structure or structures designed for residential use;

that is a single family residence; a one-, two-, three- or four-unit structure; or factory-made housing that is permanently fixed to real property;

of which not more than five percent (5%) of the total area is reasonably expected to be used primarily in a trade or business; and

if applicable, meets the requirements of the FHA, RECD or USVA, as the case may be.

Qualified Dwelling does not include stock or any other ownership interest in a cooperative housing corporation or organization or factory-made housing not permanently fixed to real property.

"RECD": The United States Department of Agriculture, Rural Economic and Community Development.

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"Reservation": The amount of funds reserved to a HomeBuilder in a Series Program pursuant to a HomeBuilder Participation Agreement and a Notice of Reservation of Funds.

"Resolution": Any Resolution or indenture adopted by the Authority pursuant to the Act authorizing the issuance of Bonds, or Notes and setting forth the general terms and conditions under which the Authority may issue, deliver and sell Bonds and Notes, as amended and supplemented from time to time.

"Rules": The rules of the Authority, as amended and supplemented from time to time.

"Series Program": A mortgage purchase program authorized by a Resolution to become a part of the Program.

"Servicer": A Lender, or its designated servicer, that has been approved by the Director, Deputy Director or Assistant Director as a Servicer and that has executed a Servicing Agreement with the Authority. A designated servicer must be a State-chartered bank, national banking association, mortgage banking association or institution, credit union, or State or federal savings and loan association:

that is located and qualified to do business in the State;

that is qualified to sell mortgages to FNMA and/or FHLMC, unless such requirement is waived by the Director based upon a determination of financial suitability made by the Director after consideration of the net assets, servicing capacity, and experience of the potential Servicer over the past 12 months in residential mortgage servicing;

the deposits of which are insured by the Federal Deposit Insurance Corporation or the National Credit Union Administration, or that deposits its funds in State financial institutions whose deposits are insured by the Federal Deposit Insurance Corporation; and

if applicable, has been approved by the FHA, RECD and/or the USVA.

The Authority may also be a Servicer.

"Servicing Agreement": The agreement between a Servicer and the Authority that sets forth the general terms and conditions for the servicing of Loans purchased by the Authority.



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"Single Family Program": A program under which the Authority purchases Loans on Qualified Dwellings.

"Special Hazard Insurance": Insurance that provides protection with respect to loss on properties acquired upon foreclosure of a defaulted Loan by reason of damage to properties caused by certain hazards (including earthquakes, and to a limited extent, tidal waves and related water damage) not insured against under a standard hazard insurance policy required to be obtained by each Eligible Borrower, or a flood insurance policy if the property is in a federally designated flood area. The Authority may provide Special Hazard Insurance or its equivalent.

"Staff": The Director, Deputy Director, Assistant Director and the other employees of the Authority.

"State": The State of Illinois.

"USVA": The United States Department of Veterans' Affairs.

"Very Low-Income Household": A single person, family or unrelated persons living together whose adjusted income is not more than 50% of the median income of the area of residence, adjusted for family size, as such adjusted income and median income for the area are determined from time to time by the United States Department of Housing and Urban Development for purposes of Section 8 of the United States Housing Act of 1937 (42 U.S.C. 1437).

**Section 366.104 Borrowing by the Authority****EMERGENCY**

To the extent allowed by State law, the Act and the Affordable Housing Act, the Authority may borrow funds with which to purchase Loans or incur other obligations under the Program.

**Section 366.105 Standards****EMERGENCY**

In administering the Program, the Authority and the Staff, in those instances permitting the exercise of discretion, shall consider, in addition to the criteria specifically set forth in this Part, the following factors:

- a) the purpose of the Program;
- b) the financial condition and previous experience of potential and participating Lenders, Servicers and HomeBuilders;
- c) the Authority's ability to purchase or redeem the Bonds and to comply with the requirements of any Resolution;
- d) the financial integrity of the Program;
- e) the desirability of achieving a reasonable geographic distribution of

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- f) the standards of the prudent lender or investor.

**Section 366.106 Forms and Procedures for the Program**  
**EMERGENCY**

The Staff may prepare, use, supplement, and amend such forms, agreements, and other documentation and such procedures as may be necessary to implement the program, all as may be prescribed by the Director, or, in the Director's absence, the Deputy Director or Assistant Director.

**Section 366.107 Fees and Charges of the Authority**  
**EMERGENCY**

The Authority may establish and collect a Commitment Fee from each HomeBuilder executing a HomeBuilder Participation Agreement in an amount not to exceed three percent (3%) of such HomeBuilder's Reservation. The Authority shall return any Commitment Fee to any HomeBuilder with which it does not enter into a HomeBuilder Participation Agreement.

**Section 366.108 Waiver****EMERGENCY**

By Resolution, the Members may authorize the waiver or variance of particular provisions of this Part to conform to changes in the requirements of applicable State law. Upon the adoption of such a Resolution, the Authority shall submit a rulemaking that reflects such requirements of State law as expeditiously as possible.

**Section 366.109 Amendment****EMERGENCY**

This Part may be supplemented, amended, or repealed by the Members from time to time in accordance with the Illinois Administrative Procedure Act and in such manner as they may determine consistent with the Rules, the Act, the Affordable Housing Act, the purposes of the Program and other applicable provisions of State law. This Part shall not constitute or create any contractual rights.

**Section 366.110 Severability****EMERGENCY**

If any clause, sentence, paragraph, subsection, Section, or Subpart of this Part shall be adjudged by any court of competent jurisdiction to be invalid, such judgment shall not affect, impair, or invalidate the remainder thereof, but shall be confined in its operation to the clause, sentence, paragraph, subsection, Section, or Subpart to which such judgment is rendered.

**Section 366.111 Gender and Number**

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**EMERGENCY**

All terms used in any one gender or number shall be construed to include any other gender or number as the context may require.

**Section 366.112 Titles and Captions****EMERGENCY**

Titles and captions of Subparts, Sections, and subsections are used for convenience and reference and are not a part of the text.

**Section 366.113 Calendar Days****EMERGENCY**

Days shall mean calendar days. Due dates falling on a Saturday, Sunday or legal State or federal holiday shall be deemed to fall on the next calendar day that is not a Saturday, Sunday, or legal State or federal holiday.

## SUBPART B: APPROVAL OF SINGLE FAMILY PROGRAMS

**Section 366.201 Establishment of Single Family Program****EMERGENCY**

From time to time, the Authority may establish a Single Family Program. Any such Single Family Program may contain provisions for the purchase of Loans on Qualified Dwellings to be constructed by HomeBuilders selected pursuant to Subpart D of this Part.

**Section 366.202 Staff Recommendation to the Advisory Commission****EMERGENCY**

For each proposed Single Family Program, the Staff shall prepare and present to the Advisory Commission, a report for the Advisory Commission's recommendation.

**Section 366.203 Authority Determination****EMERGENCY**

The Staff shall present to the Members all recommendations from the Advisory Commission for Single Family Programs. The Authority may use the proceeds of Bonds or Notes for the purchase of Loans under a Single Family Program only upon approval of such Single Family Program by Resolution of the Members.

## SUBPART C: LENDER APPLICATION PROCESS

**Section 366.301 Invitations to Sell Loans****EMERGENCY**

Upon approval of a Single Family Program by the Members, the Authority may send

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application materials to potential Lenders inviting them to submit to the Authority applications to participate in a Series Program. Lenders wishing to participate in such Series Program shall execute and return to the Authority the following documents: the Lender Application, the Mortgage Purchase Agreement (if not already executed) and the Servicing Agreement (if applicable and if not already executed). In addition, the Lender Application shall contain the following:

- a) The agreement of the prospective Lender, effective upon acceptance of the Lender Application by the Authority, to sell to the Authority Loans that comply with the terms of the Lender Application, the Notice of Acceptance and the Mortgage Purchase Agreement;
- b) The date by which the Lender Application must be submitted to the Authority;
- c) Provision for the prospective Lender to furnish such financial and other information as the Authority may reasonably require; and
- d) A statement of the maximum amount of fees and charges the Lender may charge a prospective Eligible Borrower in connection with a Loan.

**Section 366.302 Notice of Acceptance****EMERGENCY**

The Authority, by Notice of Acceptance, may commit itself, subject to the conditions set forth in the Lender Application and the Mortgage Purchase Agreement, to purchase Loans, as offered by a potential Lender in its Lender Application. Immediately after the Authority has issued its Notice of Acceptance to the Lender, the Authority shall execute a Mortgage Purchase Agreement (if not previously executed) with such Lender. Upon receipt of the Notice of Acceptance, the Lender shall be eligible to originate and sell to the Authority Loans in accordance with the terms of the Lender Application, the Notice of Acceptance and the Mortgage Purchase Agreement. The obligation of the Authority to purchase any Loan shall be subject to the issuance and sale of Bonds by the date set forth in the Lender Application in an amount sufficient to permit such purchase.

**Section 366.303 Commitments for Loans****EMERGENCY**

Upon the date indicated on the Notice of Acceptance, the Lender may begin to issue commitments to Eligible Borrowers to make Loans. The Lender may continue to issue firm commitments for the period set forth in the Notice of Acceptance. All Loans shall be closed by the date indicated in the Notice of Acceptance.

## SUBPART D: HOMEBUILDER APPLICATION PROCESS

**Section 366.401 HomeBuilder Invitations****EMERGENCY**

Upon approval by the Members of a Single Family Program containing provisions

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for the purchase of Loans on Qualified Dwellings to be constructed by HomeBuilders, the Authority may send application materials to potential HomeBuilders inviting them to submit to the Authority requests to participate in a Series Program. Such requests shall state the amount of the HomeBuilder's requested Reservation. HomeBuilders wishing to participate in such Series Program shall execute and return to the Authority the HomeBuilder Participation Agreement. The HomeBuilder Participation Agreement shall contain among other things, the following:

- a) The unconditional agreement of the prospective HomeBuilder, effective upon execution of the HomeBuilder Participation Agreement by the Authority, to construct Qualified Dwellings for sale to Eligible Borrowers that comply with the terms of the Notice of Reservation of Funds and the HomeBuilder Participation Agreement.
- b) provision for the prospective HomeBuilder to provide such information about the HomeBuilder's construction activities during the period of 24 months prior to the date of the HomeBuilder Participation Agreement and such other information as the Authority may reasonably require; and
- c) A statement of the amount of any required Commitment Fee.

#### Section 366.402 Reservation of Funds for Construction of Qualified Dwellings EMERGENCY

The Authority may make Reservations for prospective HomeBuilders from which the Authority has received timely HomeBuilder Participation Agreements and Commitment Fees (if required). In making such Reservations, the Authority shall consider with respect to each such prospective HomeBuilder the number of residential homes and other structures constructed by the HomeBuilder in the State within the 24 month period prior to the date of its HomeBuilder Participation Agreement; the Reservations requested by all prospective HomeBuilders for the Series Program; and the participation of the HomeBuilder in the Authority's previous Series Programs. Reservations shall be conclusive, subject to the adjustments permitted in Section 366.305 of this Part.

#### Section 366.403 Notice of Reservation of Funds EMERGENCY

The Authority may commit itself by Notice of Reservation of Funds, subject to the terms and conditions set forth in the HomeBuilder Participation Agreement, to make a Reservation for a prospective HomeBuilder for the construction of Qualified Dwellings for Eligible Borrowers under a Series Program. Contemporaneously with the issuance of the Notice of Reservation of Funds to the HomeBuilder, the Authority shall execute the HomeBuilder Participation Agreement with that HomeBuilder. The amount of the Reservation for the HomeBuilder shall not exceed, and may be less than, such HomeBuilder's requested Reservation. Upon receipt of the Notice of Reservation of Funds, the HomeBuilder shall be obligated to construct Qualified Dwellings in accordance with the terms of the HomeBuilder Participation Agreement. The Reservation to

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the HomeBuilder shall be subject to the issuance and sale of Bonds by the date set forth in the HomeBuilder Participation Agreement in an amount sufficient to permit such Reservation.

#### Section 366.404 Real Estate Purchase Contracts EMERGENCY

Upon receipt of the Notice of Reservation of Funds, the HomeBuilder shall construct Qualified Dwellings for sale to Eligible Borrowers. The HomeBuilder shall enter into standard residential purchase contracts with prospective Eligible Borrowers and refer such Eligible Borrowers to lenders participating in the Series Program to obtain Loans in connection with the purchase of Qualified Dwellings. All Qualified Dwellings shall be constructed and sold to Eligible Borrowers by the date indicated in the HomeBuilder Participation Agreement.

#### Section 366.405 Transfer of Reserved Funds EMERGENCY

If a HomeBuilder fails or is unable to construct and sell Qualified Dwellings in the amount of its Reservation on the terms and conditions, and within the time period, set forth in the HomeBuilder Participation Agreement, the Authority may, at the request of the HomeBuilder, reallocate all or a part of the unused portion of the HomeBuilder's Reservation to other HomeBuilders or to other projects within the Series Program in which the HomeBuilder is participating; redeem all or part of the Bonds issued with respect to such unused portion of the Reservation, but only if permitted by the Series Resolution authorizing the issuance of the Bonds; or undertake a combination of the above.

## SUBPART E: PURCHASE OF LOANS

#### Section 366.501 Loans EMERGENCY

Each Loan to be purchased under the Program shall comply with the terms of the Lender Application, the HomeBuilder Participation Agreement (if applicable), the Notice of Acceptance, and the Mortgage Purchase Agreement and shall specifically comply with the following requirements, among others:

- a) The original principal amount of each Loan, unless such Loan is the subject of insurance or guaranty by the FHA, RECD or the USVA, shall not exceed 97% of the Property Value. If such Loan is the subject of insurance or guaranty by the FHA, RECD or USVA, the principal amount of the Loan shall not exceed the amount approved by such agency. Each Loan that has a Loan-to-Property Value ratio in excess of 80% at the time of origination shall:
  - 1) be insured by a private mortgage insurer licensed to do business in the State and qualified to insure single family mortgages



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purchased by the FHLMC or successor federal agency to the extent, if any, required, so that the uninsured portion of such Loan shall not exceed 72% of the Property Value; or

- 2) be subject to insurance or guaranty by the FHA or USVA or any other agency or instrumentality of the United States of America having similar powers to insure or guarantee mortgage loans.

- b) Each Loan to be purchased by the Authority shall be secured by a Mortgage on a Qualified Dwelling and shall also meet the applicable terms and conditions set forth in the HomeBuilder Participation Agreement (if applicable), the Lender Application, the Notice of Acceptance and the Mortgage Purchase Agreement. Lenders shall sell to the Authority, and the Authority shall purchase, only Loans made to Eligible Borrowers.

- c) Each Mortgage securing a Loan to be purchased by the Authority shall:

- 1) be executed on a form approved by the Authority;
- 2) be a valid first mortgage lien on a Qualified Dwelling;
- 3) be consistent with Illinois law; and
- 4) conform with the requirements prescribed by the Authority and any applicable insurer.

- d) Each Loan to be purchased by the Authority shall be non-assumable and non-assignable, unless otherwise required by applicable State or federal law, and shall contain a provision giving the Authority the right to accelerate the maturity of the Loan upon sale or lease of the Qualified Dwelling.

- e) The Authority shall not purchase any Loan if, on the date of purchase, the obligor of the Loan is delinquent in the payment of any installment of principal, interest or other amounts due under the terms of such Loan.

- f) The Authority may foreclose Mortgages held as security for Loans purchased under this Part that are in default according to their terms, or reassign such Mortgages to the Lender in accordance with the terms of the Mortgage Purchase Agreement. The Authority may take title in its name upon foreclosure and subsequently convey title to such property to any qualified insurer of the mortgage or any bona fide purchaser of the property.

### Section 366.502 Terms and Conditions of the Purchase of Loans EMERGENCY

- a) The Authority shall purchase Loans on the terms and conditions and in the manner prescribed in the Mortgage Purchase Agreement. The Mortgage Purchase Agreement shall contain such warranties of the Lender in connection with the Loans to be sold thereunder as the Authority shall require, and shall include, among others, the following warranties:

- 1) The mortgagor is an Eligible Borrower;
- 2) The Loan is evidenced by a properly executed promissory note made payable or assigned to the order of the Lender, endorsed by the

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Lender to the Authority and is secured by a Mortgage on the Qualified Dwelling; both the note and the Mortgage are the legal, valid, and binding obligations of their makers and mortgagors and are enforceable in accordance with their terms, except only as such enforcement may be limited by laws affecting the enforcement of creditors' rights generally; and all parties to each Loan had full legal capacity to execute all Loan documents at the time of execution;

- 3) The Mortgage and any other document required to be filed in a public office to perfect the mortgage lien against third parties have been duly and timely filed, registered, or recorded by the Lender in the proper public office in order to give constructive notice of such mortgage lien to all subsequent purchasers or encumbrancers;

- 4) The Lender, as the sole owner and holder of the Loan, has full right to sell and assign the Loan to the Authority and such assignment conveys a good and marketable mortgagee's title to the Authority free and clear of all liens and encumbrances and subject only to real property taxes and assessments not yet due and encumbrances customarily accepted in accordance with applicable title standards and disclosed to the Authority prior to purchase of the Loan;

- 5) The Mortgage creates a valid and existing first mortgage lien on the Qualified Dwelling to secure the Loan, subject to easements and other matters affecting title generally acceptable to lenders making mortgage loans in the State;

- 6) The Lender has not modified in any respect and has not satisfied, canceled, subordinated, or compromised in whole or in part the Loan indebtedness and has not released the mortgaged property in whole or in part from the lien of the indebtedness evidenced by the note and secured by the Mortgage, and the terms, covenants, and conditions of the note evidencing the Loan and the Mortgage securing the Loan have not been waived, altered, or modified in any respect that would materially affect the validity or enforceability of the Loan or the security of the lien of the Mortgage;

- 7) The real property securing the Loan is a Qualified Dwelling;

- 8) The Qualified Dwelling is covered by a valid and existing policy of hazard insurance meeting the requirements of the Authority;

- 9) The Lender has complied as follows:

- A) as to each FHA-insured Loan, with the National Housing Act, 12 U.S.C. Section 1701 et seq., as amended and supplemented, all rules and regulations issued thereunder and all administrative publications. The FHA insurance shall be in full force and effect and, upon purchase by the Authority of the Loan, shall inure to the benefit of the Authority;
- B) as to each Loan guaranteed by the USVA or RECD, with the Servicemen's Readjustment Act, 38 U.S.C. Section 1803 et

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seq., the Consolidated Farm and Rural Development Act, 7 U.S.C. Section 1921 et seq., Title V of the Housing Act of 1949, 42 U.S.C. Sections 1471-1482, or other applicable federal law as amended and supplemented, all rules and regulations issued thereunder and all administrative publications. Any such guaranty shall be in full force and effect and, upon purchase by the Authority of the Loan, shall inure to the benefit of the Authority; and

C) as to each Loan insured by a private mortgage insurance company, with all rules and requirements of such company. Any such insurance shall be in full force and effect and, upon purchase by the Authority of the Loan, shall inure to the benefit of the Authority;

10) The Loan is covered by a fully paid mortgagee's title insurance policy in such form as the Authority may require; and

11) To the best of Lender's information, knowledge and belief, no condition exists that would prohibit the purchase of the Loan by the Authority under all applicable rules, regulations and contractual provisions.

b) The Mortgage Purchase Agreement shall provide that the Authority shall have the right to require the Lender to repurchase Loans sold to the Authority by the Lender if the Director, Deputy Director or Assistant Director determines that the Lender has failed to comply with the requirements of either this Part or its contracts and agreements with the Authority under the Program.

### Section 366.503 Mortgage Pool Insurance EMERGENCY

If required by the applicable Series Resolution, the Authority shall obtain Pool Insurance for each Series Program in an amount not less than that percentage of the original aggregate principal amount of the Loans authorized by such Series Resolution. Such Pool Insurance shall insure the Authority against losses arising from an event of default under any Loan covered by the policy in an amount equal to the unpaid principal balance of, and accrued interest on, the Loan and customary fees and expenses paid by the Authority to preserve and protect the mortgaged premises and to foreclose or otherwise dispose of such premises, such as real estate taxes, hazard and private insurance premiums and foreclosure expenses, less the amount received by the Authority under any other insurance policy on the Loan or from disposition of such premises or substantially similar benefits.

### Section 366.504 Special Hazard Insurance EMERGENCY

If required by the applicable Series Resolution, the Authority shall obtain Special Hazard Insurance for such Series Program in the amount required by such Series Resolution.

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## SUBPART F: ADMINISTRATIVE RULES

### Section 366.601 Servicing of Loans EMERGENCY

The Authority shall cause all Loans purchased by the Authority to be serviced by a Servicer pursuant to the Servicing Agreement.

### Section 366.602 Equal Opportunity Lending EMERGENCY

In making Loans, the Lender shall not deny such Loans to any person or persons or discriminate against such person or persons in fixing the amount, interest rate, duration, or other terms and conditions of such Loans on account of race, color, religion, age, sex, marital status, familial status, handicap, ancestry, national origin, or unfavorable military discharge; and shall otherwise be subject to all State and federal requirements with respect to non-discrimination in lending.

### Section 366.603 Inspection of Books and Records EMERGENCY

Upon prior written notice, the Authority may inspect, examine, and copy the books and records of each Lender for the purpose of determining compliance with the Authority's Rules, the Act, the Affordable Housing Act and all contracts and agreements between the Authority and such Lender relating to the Program.

### Section 366.604 Termination EMERGENCY

The Authority shall retain the right to establish procedures for the termination of its obligation to purchase Loans associated with any particular issue of Bonds under the Program, subject to applicable State law and to its existing contractual obligations, including contractual obligations arising under a HomeBuilder Participation Agreement, a Lender Application, a Notice of Acceptance, a Mortgage Purchase Agreement and a Servicing Agreement.

DEPARTMENT OF PUBLIC HEALTH/HEALTH FACILITIES PLANNING BOARD  
NOTICE OF EMERGENCY AMENDMENTS

- 1) Heading of the Part:  
Narrative and Planning Policies
- 2) Code Citation:  
77 Ill. Adm. Code 1100
- 3) Section Numbers:  
1100.740
- 4) Statutory Authority:  
Health Facilities Planning Act  
(Ill. Rev. Stat. 1991, ch. 111 1/2, par. 1151 et seq.)  
[20 ILCS 3960]
- 5) Effective Date of Emergency Amendment:  
January 31, 1995
- 6) If these Emergency Amendments are to Expire Before the End of the 150-Day Period, Please Specify the Date on Which it is to Expire:  
Not Applicable
- 7) Date Filed in Agency's Principal Office:  
January 31, 1995
- 8) Reason for Emergency:

The Certificate of Need selection for the thirteen sub-acute care model sites is currently underway with twenty applicants competing for the thirteen available sites. There are no applications pending for a rural hospital site. This change would change the planning area definition for rural area and expand the number of potential applicants competing for rural area models and reduce the number competing for the municipality category. The intent of the Alternative Health Care Delivery Act was to make these sites operational as soon as possible to assess the need for this category of service. The need for emergency rulemaking is to implement the Act in a timely fashion and to assure geographic distribution. By adding additional counties to the definition of rural areas, it is anticipated that applications will be submitted which may allow for demonstration projects to be developed. Emergency amendments will provide for timely submission and could have a positive economic impact by providing encouragement to hospitals, which were not eligible to

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- 9) A Complete Description of the Subjects and Issues Involved:  
These rules establish the planning areas, occupancy target and need projection models to be utilized in the selection of sites for sub-acute care facilities. The focus of the changes addressed here are the specific definition of what constitutes a rural area. Adopted rules established a definition of "municipality" as a geographic area designated as a Metropolitan Statistical Area (MSA) by the Bureau of the Census. Under this definition rural areas consisted of all areas outside Cook, DuPage, Kane, Lake, McHenry, and Will counties and any other county included in the municipality definition. Under the census definition many rural counties are included in MSA's due to their physical proximity to urban areas. Under the competitive review established for sub-acute care projects this places rural hospitals located in these proximity counties in competition with the urban hospitals located within the MSAs. Under the conditions for evaluation this provides the urban facility a distinct advantage in obtaining one of the permits while in rural areas restricts the number of potential applicants severely. The emergency amendment language would rectify these problems.

- 10) Are There Any Proposed Amendments Pending on this Part? Yes  
If Yes:  

Section Numbers	Proposed Action:	Ill. Reg. Citation:
1100.750	Amendment	18 Ill. Reg. 9357

- 11) Statement of Statewide Policy Objectives:  
To develop a process for the selection of pilot programs for sub-acute care under the directives of the Alternative Health Care Delivery Act.
- 12) Information and Questions Regarding these Emergency Rules shall be directed to:

Gail M. Devito, Division of Governmental Affairs, Department of Public Health, 535 West Jefferson, Fifth Floor, Springfield, Illinois 62761, 217/782-6187.

The full text of the Emergency Amendments begins on the next page:



## DEPARTMENT OF PUBLIC HEALTH/HEALTH FACILITIES PLANNING BOARD

## NOTICE OF EMERGENCY AMENDMENTS

TITLE 77: PUBLIC HEALTH  
CHAPTER II: DEPARTMENT OF PUBLIC HEALTH/HEALTH FACILITIES  
PLANNING BOARD

## SUBCHAPTER a: ILLINOIS HEALTH CARE FACILITIES PLAN

## PART 1100

## NARRATIVE AND PLANNING POLICIES

## SUBPART A: GENERAL NARRATIVE

Section	
1100.10	Introduction
1100.20	Authority
1100.30	Purpose
1100.40	Health Maintenance Organizations (Repealed)
1100.50	Subchapter Organization
1100.60	Mandatory Reporting of Data
1100.70	Data Appendices
1100.80	Institutional Master Plan Hospitals (Repealed)
1100.90	Public Hearings

## SUBPART B: GENERAL DEFINITIONS

Section	
1100.210	Introduction
1100.220	Definitions

## SUBPART C: PLANNING POLICIES

Section	
1100.310	Need Assessment
1100.320	Staffing
1100.330	Professional Education
1100.340	Public Testimony
1100.350	Multi-Institutional Systems
1100.360	Modern Facilities
1100.370	Occupancy-Utilization Standards
1100.380	Systems Planning
1100.390	Quality
1100.400	Location
1100.410	Needed Facilities
1100.420	Discontinuation
1100.430	Coordination with Other State Agencies

## SUBPART D: NEED FORMULAS/UTILIZATION TARGETS

Section	
1100.510	Introduction, Formula Components and Planning Area Development

## DEPARTMENT OF PUBLIC HEALTH/HEALTH FACILITIES PLANNING BOARD

## NOTICE OF EMERGENCY AMENDMENTS

1100.520	Medical-Surgical/Pediatric Categories of Service
1100.530	Obstetric Category of Service
1100.540	Intensive Care Category of Service
1100.550	Comprehensive Physical Rehabilitation Category of Service
1100.560	Acute Mental Illness Categories of Service
1100.570	Substance Abuse Category of Service
1100.580	Neonatal Intensive Care Category of Service
1100.590	Burn Category of Service
1100.600	Therapeutic Radiology Equipment
1100.610	Open Heart Surgery Category of Service
1100.620	Cardiac Catheterization Services
1100.630	Chronic Renal Dialysis Category of Service
1100.640	Non-Hospital Based Ambulatory Surgery
1100.650	Computer Systems (Repealed)
1100.660	General Long-Term Care Category of Service
1100.670	Specialized Long-Term Care Categories of Service
1100.680	Magnetic Resonance
1100.690	High Linear Energy Transfer (L.E.T.)
1100.700	Positron Emission Tomographic Scanning (P.E.T.)
1100.710	Extracorporeal Shock Wave Lithotripsy
1100.720	Selected Organ Transplantation
1100.730	Kidney Transplantation
1100.740	Subacute Care Hospital Model
EMERGENCY	

APPENDIX A      Applicable Codes and Standards Utilized in 77 Ill. Adm.  
Code: Chapter II, Subchapter a

AUTHORITY: Implementing and authorized by the Illinois Health Facilities Planning Act (Ill. Rev. Stat. 1991, ch. 111 1/2, pars. 1151 et seq.) [20 ILCS 3960].

SOURCE: Fourth Edition adopted at 3 Ill. Reg. 30, p. 194, effective July 28, 1979; amended at 4 Ill. Reg. 4, p. 129, effective January 11, 1980; amended at 5 Ill. Reg. 4895, effective April 22, 1981; amended at 5 Ill. Reg. 10297, effective September 30, 1981; amended at 6 Ill. Reg. 3079, effective March 8, 1982; emergency amendments at 6 Ill. Reg. 6895, effective May 20, 1982, for a maximum of 150 days; amended at 6 Ill. Reg. 11574, effective September 9, 1982; Fifth Edition adopted at 7 Ill. Reg. 5441, effective April 15, 1983; amended at 8 Ill. Reg. 1633, effective January 31, 1984; codified at 8 Ill. Reg. 15476; amended at 9 Ill. Reg. 3344, effective March 6, 1985; amended at 11 Ill. Reg. 7311, effective April 1, 1987; amended at 12 Ill. Reg. 16079, effective September 21, 1988; amended at 13 Ill. Reg. 16055, effective September 29, 1989; amended at 16 Ill. Reg. 16074, effective October 2, 1992; amended at 18 Ill. Reg. 2986, effective February 10, 1994; amended at 18 Ill. Reg. 8448, effective July 1, 1994; emergency amendment at 19 Ill. Reg. 1941, effective January 31, 1995, for a maximum of 150 days.

## DEPARTMENT OF PUBLIC HEALTH/HEALTH FACILITIES PLANNING BOARD

## NOTICE OF EMERGENCY AMENDMENTS

Section 1100.740 Subacute Care Hospital Model  
EMERGENCY

## a) Planning Area:

- 1) the City of Chicago;<sup>2</sup>
- 2) Cook County outside the City of Chicago;<sup>2</sup>
- 3) DuPage, Kane, Lake, McHenry, and Will Counties;<sup>2</sup>
- 4) Municipalities with a population greater than 50,000 not located in the areas described in subsections (a)(1), (2), and (3) of this Section. Municipalities means geographic areas designated as a Metropolitan Statistical Area (MSA) by the Bureau of the Census pursuant to the 1990 census but shall not include any counties within an MSA having a 1990 population of less than 35,000. Counties with a 1990 population less than 35,000 and which are located in an MSA are: Boone, Clinton, Grundy, Jersey, Menard, Monroe, and Woodford counties. These counties shall be classified as rural areas pursuant to subsection (a)(5) of this Section;<sup>2</sup> and

- 5) Rural areas, i.e., all areas exclusive of subsections (a)(1), (2), (3), and (4) of this Section.

## b) Age groups: All ages

## c) Occupancy Targets: Modernization/Establishment 75%

## d) Bed capacity:

- 1) the lesser of measured bed capacity or functional bed capacity per individual room utilized for subacute care for facilities licensed or operated pursuant to the Hospital Licensing Act (Ill. Rev. Stat. 1991, ch. 111 1/2, par. 142 et seq.) [210 ILCS 85]; or
- 2) the licensed bed capacity per individual room utilized for subacute care for facilities licensed pursuant to the Nursing Home Care Act (Ill. Rev. Stat. 1991, ch. 111 1/2, par. 4151-101 et seq.) [210 ILCS 45].

## e) Need Determination: There shall be no more than:

- 1) Three subacute alternative health care models in the City of Chicago; one in an existing licensed hospital, one in an existing licensed long-term care facility and one located on a designated site which shall have been licensed as a hospital under the Illinois Hospital Licensing Act within the ten years immediately before the application for a license (Section 30 of the Alternative Health Care Delivery Act-P.A. [210 ILCS 3/30]) but which is not now currently operating as such.
- 2) Two subacute alternative health care models in Cook County outside the city of Chicago; one of which must be located in an existing licensed hospital and the other in an existing licensed long-term care facility.
- 3) Two subacute alternative health care models in DuPage, Kane, Lake, McHenry and Will Counties; one of which must be located in an existing licensed hospital and the other in an existing licensed long-term care facility.

## DEPARTMENT OF PUBLIC HEALTH/HEALTH FACILITIES PLANNING BOARD

## NOTICE OF EMERGENCY AMENDMENTS

- 4) Two subacute alternative health care models in municipalities with a population greater than 50,000 not located in areas included in subsections (e)(1), (2), or (3) of this Section; one of which must be located in an existing licensed hospital and the other in an existing licensed long-term care facility.
- 5) Four subacute alternative health care models in rural areas; two of which must be located in existing licensed hospitals and the other two in existing long-term care facilities.
- f) Beds approved for a subacute care hospital model shall be inventoried for the category of service utilized prior to permit issuance during the demonstration period.
- g) If after a period of one year from the effective date of this regulation, the need in a planning area for a subacute care hospital model to be located in either an existing licensed hospital or long-term care facility has not been met, the need may be met by either an existing hospital or an existing long-term care facility.

(Source: Emergency amendment at 19 Ill. Reg. **1947**, effective January 31, 1995, for a maximum of 150 days)

## COMMISSIONER OF BANKS AND TRUST COMPANIES

## NOTICE OF PUBLIC INFORMATION

NOTICE OF ACCEPTANCE OF AN APPLICATION  
 COMMERCE BANCSHARES, INC. KANSAS CITY, MISSOURI,  
 TO ACQUIRE PEOPLES MID-ILLINOIS CORPORATION,  
 BLOOMINGTON, ILLINOIS

Pursuant to Section 3.071(d) of the Illinois Bank Holding Company Act of 1957, 205 ILCS 10/3.071(d) (1992), notice is hereby given that the Commissioner of Banks and Trust Companies has accepted for processing an application by Commerce Bancshares, Inc., 1000 Walnut Street, P.O. Box 13686, Kansas City, Missouri, 64199, to acquire Peoples Mid-Illinois Corporation, Washington and Center, Bloomington, Illinois 61701.

Interested persons who desire to comment on this proposed acquisition may submit their comments in writing no later than 14 days after the publication of this notice to:

Dina A. Mansour  
 Commissioner of Banks and Trust Companies  
 310 South Michigan Ave.  
 Suite 2130  
 Chicago, Illinois 60604

## ILLINOIS REGISTER

## COMMISSIONER OF BANKS AND TRUST COMPANIES

## NOTICE OF PUBLIC INFORMATION

NOTICE OF ACCEPTANCE OF AN APPLICATION  
 OLD NATIONAL BANCORP, EVANSVILLE, INDIANA TO  
 ACQUIRE OBLONG BANCSHARES, INC. OBLONG, ILLINOIS

Pursuant to Section 3.071(d) of the Illinois Bank Holding Company Act of 1957, 205 ILCS 10/3.071(d) (1992), notice is hereby given that the Commissioner of Banks and Trust Companies has accepted for processing an application by Old National Bancorp, 420 Main Street, P.O. Box 718, Evansville, Indiana 47705, to acquire Oblong Bancshares, Inc., 203 West Main Street, P.O. Box 10, Oblong, Illinois 62440, and thereby indirectly acquire The First National Bank of Oblong.

Interested persons who desire to comment on this proposed acquisition may submit their comments in writing no later than 14 days after the publication of this notice to:

Dina A. Mansour  
 Commissioner of Banks and Trust Companies  
 310 South Michigan Ave.  
 Suite 2130  
 Chicago, Illinois 60604



## DEPARTMENT OF FINANCIAL INSTITUTIONS

## NOTICE OF PUBLIC INFORMATION

NOTICE OF NAMES OF PERSONS APPEARING  
TO BE OWNERS OF UNCLAIMED PROPERTY WHOSE  
LAST KNOWN ADDRESSES ARE IN CERTAIN STATES

## TITLE 38: FINANCIAL INSTITUTIONS

## CHAPTER I: DEPARTMENT OF FINANCIAL INSTITUTIONS

Pursuant to statutory requirement, the Illinois Department of Financial Institutions is publishing the names and last known addresses of unclaimed property owners whose last known addresses are allegedly in a state other than Illinois. The other state does not have a reciprocity arrangement with Illinois.

If your name or that of a person you represent appears below, you may contact the Department for further information about the assets.

INQUIRIES MUST BE IN WRITING. The written inquiry should include the name and address as listed, and the correct name and address for reply. If inquiring about a name other than your own, you must indicate your authority to act on behalf of that person.

Address written inquiries to:

UNCLAIMED PROPERTY DIVISION  
DEPARTMENT OF FINANCIAL INSTITUTIONS  
P.O. Box 19495  
Springfield, Illinois 62794-9495

AUTHORITY: Implementing and required by the Illinois Uniform Disposition of Unclaimed Property Act, (765 ILCS 1025/12).

## DEPARTMENT OF FINANCIAL INSTITUTIONS

## NOTICE OF PUBLIC INFORMATION

A T T	DEPT 77687 DETROIT	MI 48277-0000
ABRAMS	MARTIN 8109 E 93RD ST TULSA	OK 74133-0000
ACHENBACH	HENRY W 206 GRANT STREET CEDAR FALLS	IA 50613-0000
ADAMS	ANA S PO BOX 5007 TUCSON	AZ 85701-0000
ADAMS	JOHN R 1117 STEELMANVILLE LINWOOD	NJ 08221-0000
ADAMS	JOSH RT 3 BOX 226 LIVINGSTON	TX 77351-7351
ADEEYO	ADEWALE PMB 21500 P96 ADENIYI JONES AVE IKEJA LAGOS NIGERIA	FA 00000-0000
AETNA/CLAIMS DEPT	PO BOX 91555 ARLINGTON	TX 76015-0569
AGATHANGELOU	ANGELA PALOURIOTISSA NICOSIA 133 CYPRUS GREECE	FA 00000-0000
AGATHANGELOU	PETROS PALOURIOTISSA NICOSIA 133 CYPRUS GREECE	FA 00000-0000
AGLINSKAS	EGLE V FED REPUBLIC OF GERMANY GERMANY	FA 00000-0000
AGUIRIE	JOHNNY HHC 197TH INF FT BENNING	GA 31905-0000
AHMED	BASHIR KARACHI 18 PAKISTAN 60631 PAKISTAN	FA 00000-0000
AHMED	SARAH PO BOX 87333 RIYADH SAUDI ARABIA	FA 00000-0000
ALABDULLA	ABDULLA A PO BOX 374 DOHA QATAR	FA 00000-0000
ALAM	IFTEKHARUL 54 DILKUSHA C A DACCA 2 BANGLADESH FA 00000-0000	

## DEPARTMENT OF FINANCIAL INSTITUTIONS

## NOTICE OF PUBLIC INFORMATION

ALDRIDGE	DAVID	C BTRY 5/52 ADA FT STEWART	GA	31314-0000	ANDERSON	RUTH	S 4645 N 76TH DR PHOENIX	AZ	85033-0000
ALESHIRE	D	W 10312 GULF HILLS DRIVE SUN CITY	AZ	85351-0000	ANDERSON & FORRESTER		8250 JOYCE DRIVE GOLDEN	CO	80403-0000
ALLABEN	STATEN	D RR 1 BOX 70 LONDONDERRY	VT	05148-0000	ANDREWS	JEFFREY	A MILLINGTON HOMES 4935 1 NAVY ROAD MILLINGTON	TN	38054-0000
ALLEN	ROY	E 214 CHERRY TRAER	IA	50675-0000	ANKOV	DONALD	H USAF RGN HOSP/SGHME RANDOLPH AFB	TX	78148-0000
ALLEN PRINTING CO		127 4TH AVE SOUTH CLINTON	IA	52732-0000	ANTOON S BICYCLES		13823 19 MILE ROAD STERLING HEIGHTS	MI	48313-0000
ALLISON	RHEA	H PO BOX 201 MISSOURI CITY	TX	77459-0000	ARMSTRONG	M	L 2591 KRAMERIA DENVER	CO	80207-0000
ALMENDAREZ	M	E 805 GREENLEAF LN AVONDALE	AZ	85323-0000	ARNETT	ANN	9801 WESTHEIMER IL 61100 HOUSTON	TX	77042-0000
ALTON	CARO	431 SOUTH CLINTON AVENUE EAST ORANGE	NJ	07018-0000	AT T BELL LABORATORIES		PO BOX 800 SHORT HILLS	NJ	07078-0000
ALTON	WARREN	L 431 SOUTH CLINTON AVENUE EAST ORANGE	NJ	07018-0000	AT&T CONSUMER PRODUCTS DIVISION		PO BOX 9001 DETROIT	MI	48297-0000
AMBROSIA	ANGELA	1304 E LIBRA DRIVE TEMPE	AZ	85283-0000	AULVELD	FREDERICK	H 5766 HAWAIIAN SUN SAN ANTONIO	TX	78244-0000
AMERICAN BED CO		3355 W 11TH ST HOUSTON	TX	77008-0000	AUTOMATIC RADIUS MANAGEMENT		707 RAWLINS DALLAS	TX	75219-0000
AMFAC ELECTRIC		SUITE 300 1901 HWY GRAND PRAIRIE	TX	75050-0000	AVMARK INTERNATIONAL		LONDON SWIV 1 NS ENGLAND	FA	00000-0000
ANDERSON		INC	DE	00000-0000	AYO	JACOB	PMB 1383 ILORIN KWARA STATE NIGERIA	FA	00000-0000
ANDERSON	CAROL	J 49 COPPER HILL PARK RINGWOOD	NJ	07456-0000	AZICATE	FELIXBERTO	C QUEZON CITY D501 PHILIPPINES	FA	00000-0000
ANDERSON	JOHN	W 49 COPPER HILL PARK RINGWOOD	NJ	07456-0000	BACA	GLADYS	I 2225 EIGHTH ST CALENA PARK	TX	77547-0000
ANDERSON	MICHAEL	B BTRY 1/12TH FA FT SILL	OK	73503-0000	BACHEWIG	MYHRE	HHC DISCOM FT STEWART	GA	31314-0000

## DEPARTMENT OF FINANCIAL INSTITUTIONS

## NOTICE OF PUBLIC INFORMATION





## DEPARTMENT OF FINANCIAL INSTITUTIONS

## NOTICE OF PUBLIC INFORMATION

BELL	MILES	T R R 2 BOX 58 CRAWFORDSVILLE	IA	52621-0000
BENGE	ROBERT	D RT 1 BLAKESBURG	IA	52536-0000
BENNETT	JAMES	A RT 2 BOX 310 THREE OAKS	MI	49128-9802
BENNETT	JEFFERY	T 6061 VILLAGE BEND 1311 DALLAS	TX	00000-0000
BENTLEY	JAMES	L APT 9C 6509 HIGHWAY 49 E SPRINGFIELD	IN	37172-0000
BERGER	LUCINDA	M LOST CANYON TRAILER PARK 12 PEOSTA	IA	52068-0000
BERGMANN	DAVE	474 FIELD STREAM WAY LAWRENCEVILLE	GA	30245-0000
BERKLEY	WILLIAM	E 8141 E REDFIELD ROAD SCOTTSDALE	AZ	85260-0000
BERRY	KYLE	K 1910 LITTLE ROCK	AR	72211-0000
BETANCOURT	PEDRO	M 2203 NW 18TH LAWTON	OK	73501-0000
BEVEL		111 OAKDALE RD DOWNSVIEW ONTARIO M3N 1 CANADA	FA	00000-0000
BEVOUDA	AGGELIKI	ARISTOTELOUS 122 ATHENS GREECE	FA	00000-0000
BHUTTA	M	A 19 HALL ROAD LAHORE PAKISTAN	FA	00000-0000
BIGGS	ARTHUR	3304 E KIMBERLY 49 DAVENPORT	IA	52807-0000
BIOPROCESSING RESEARCH CENTER		1343 MOURSUND SUITE R127 HOUSTON	TX	77030-7030
BIVINS	JUNE	708 A CAUTHEN WAY SIGNAL MT	GA	30034-0000

## DEPARTMENT OF FINANCIAL INSTITUTIONS

## NOTICE OF PUBLIC INFORMATION

BLACKBURN	JAMES	T 9119 W WEAVER DR LITTLETON	CO	80123-0000
BLACKLAND PRODUCE		PO BOX 323 BONHAM	TX	75413-0000
BLANKENBECKLER	EDGAR	2257 WATERFORD GRACE NEW BRAUNFELS	TX	78130-0000
BLANKENBECKLER	ESTHER	2257 WATERFORD GRACE NEW BRAUNFELS	TX	78130-0000
BLASSINGAME	LOUIS	C CI 3/75TH ENGR FT BENNING	GA	31905-0000
BLOCK	CINDY	J 10201 HARWIN 613 HOUSTON	TX	77036-0000
BLONDA	MILDRED	INC	DE	00000-0000
BOESSO	ANTHONY	25100 BRESCIA ITALY	FA	00000-0000
BONHAM	WILLIAM	315 SANDRA PL LAKEWOOD	NJ	08701-0000
BOSEMAN	RALPH	E 110 FLORIDA DR DARLINGTON	SC	29532-0000
BOWEN	JEANNE	R 2238 S BRAUN CT LAKEWOOD	CO	80228-0000
BOWMAN	ANGELA	I 3160 E MONTE VISTA TUCSON	AZ	85716-0000
BOWMAR	TREVOR	B 7 SHADWELL RD NASHUA	NH	03062-0000
BOYCE	EDWIN	C 9021 E 40TH TULSA	OK	74145-0000
BOYD	RICK	211 PINEWAY BLV CANADA	FA	00000-0000
BOYD	WENDY	211 PINEWAY BLV CANADA	FA	00000-0000

## DEPARTMENT OF FINANCIAL INSTITUTIONS

## NOTICE OF PUBLIC INFORMATION

BOYER	MARY	M 811 OAKDALE ROAD NE ATLANTA	GA 30307-0000
BOZES	RUBY	J 2412 LACOSTE LANE CHALMETTE	LA 70043-0000
BRADLEY	ADRIENNE	212 N POPLAR WICHITA	KS 67214-0000
BRADLEY	ERIC	309 ROOT ST 24 KILLEN	TX 76541-0000
BRADLEY	KELLY	3737 HILLCROFT 170 HOUSTON	TX 77057-0000
BRADSHAW	ROCKY	L 2500 N EASTMAN RD LONGVIEW	TX 75601-0000
BRANDON	ANTONIA	M 94 325 HOKUSHIAHI APT 229 MILILANI TOWN	HI 96789-0000
BRAZIL	WILLIAM	F 203 KENDRICK AVE COLUMBUS	GA 31903-1441
BRESEMAN	ALGARNON	P 23 BRIDGEND CT SO WOODBRIDGE ONT L4L 3L3 CANADA	FA 00000-0000
BRESEMAN	BARDLEY	B BRADLEY B BRESEMAN 23 BRIDGEND CT SO L4L 3L3 CANADA	FA 00000-0000
BREWER	JUDY	1003 BRUKENRIDGE HILENA	AL 35082-0000
BRODKEY	ANDREW	A 6505 E AMHERST AVENUE DENVER	CO 80222-0000
BROOKS	ANNIE	M 2674 FAIRFOX ST DENVER	CO 80207-0000
BROOKS	MARVA	INC	DE 00000-0000
BROUSSARD	CORDELIA	M 502 GARNER AVE WALDORF	MD 20602-0000
BROWN	CARDEL	E 2227 BARRONE ST NEW ORLEANS	LA 70113-0000

## DEPARTMENT OF FINANCIAL INSTITUTIONS

## NOTICE OF PUBLIC INFORMATION

BROWN	JERRY	176 MIDWAY DRIVE OLIVER SPRINGS	TN 37440-0000
BROWN	ROYALL	2901 WALNUT HILL LN DALLAS	TX 75226-3763
BROWNSMITH	LOLA	6889 PEACHTREE RD NORCROSS	GA 30092-3900
BUCHANAN	VIOLEA	20 BOX 1187 HAGER SHORES	MI 49003-1100
BUCHBERG	DAVID	4807 BEDFORD MESQUITE	TX 75150-2000
BUCKLIN	DELAINE	F BOX 1042 NEWTON	IA 52703-1000
BUCKLIN	JOEL	T BOX 1142 NEWTON	IA 52708-1100
BULLETT	EUGENE	W HHD 2ND TNG BN TSB FT BENNING	GA 31905-1000
BUSCHER	TAMARA	K 906 N HIDDEN VALLEY CIRCLE DURANGO	CO 81311-0000
BUSINESS AND PROFESSIONAL M		PO BOX 1632 BEAUMONT	TX 77704-0000
BUTLER	MARIE	935 44TH STREET SE CEDAR RAPIDS	IA 52403-0000
BUTTLER	EDWARD	A TPR 15TH CAV FT BENNING	GA 31905-0000
BUXTON	EDWARD	C 311 W CHELTON RD PARKSIDE	PA 19015-0000
BYRD	ESTHER	W BOX 1521 EL DORADO	AR 71700-2000
CAHILL	JOHN	A PO BOX 65656 LUBBOCK	TX 79464-5656
CAIN	MICHAEL	C CO 3 7 INF FT BENNING	GA 31905-3000
CALHOUN	ALLEN	2280 GRANGER DRIVE	

## DEPARTMENT OF FINANCIAL INSTITUTIONS

## NOTICE OF PUBLIC INFORMATION

CALOGRIDES	WILLIAM	BRIDGE CITY	TX	77611-0000
CALVILLO	ERIC	B 1509 CARSON DR MESQUITE	TX	75149-0000
CAMERON	VERTRELLE	ESCULTORES CD SATELITE MEXICO CITY 00000	FA	00000-0000
CAMPBELL	A	D ST THOMAS VIRGIN ISLANDS	FA	00000-0000
CANJEMI		3608 W TULSA ST CHANDLER	AZ	85226-0000
CANJEMI	M	BOX 996 NOME	AK	99962-0000
CANTWELL	DALLAS	BOX 996 NOME	AK	99962-0000
CANTWELL	JAMES DAVID	4671 SOUTHWEST FREEWAY HOUSTON	TX	77027-0000
CARAPANOS	ATHANASIA	4671 SOUTHWEST FREEWAY HOUSTON	TX	77027-0000
CARAPANOS	VASILIKE	PYRONOS ATREET 62 AMALIADA ELIAS GRE FA	FA	00000-0000
CARLSON	GARY	PYRONOS ATREET 62 AMALIADA ELIAS GRE FA	FA	00000-0000
CARR	CHARLES	L 425 ROYAL OAK DR COLORADO SPRINGS	CO	80906-0000
CARR	KIRBY	L CMR 1 BOX 18624 FT RUCKER	AL	36362-0000
CARSON	DARRYL	N 2709 CITCO AVE CHATANOOGA	TN	37404-0000
CARTER	ALLAN	M 11844 ELLINGTON DR BELTSVILLE	MD	20705-0000
CARTER	WILLIAM	F 5757 FIELDSTONE D LITHONIA	GA	00000-0000
CARTER		S PO BOX 35		

## DEPARTMENT OF FINANCIAL INSTITUTIONS

## NOTICE OF PUBLIC INFORMATION

CASANOVA	WILMA	COLLEGE PARK	MD	00000-0000
CASSADAY	DANIEL	J 14519 MOSS CREEK DR CYPRESS	TX	77429-2255
CASSEL INC		4323 S ANDES WAY 102 AURORA	CO	80010-0000
CASTIGLIA	MARGARET		IA	00000-0000
CATHCART	DAVID	L 111 HOLSTER RD CLIFTON	NJ	07013-0000
CAYON GMC TRUCK		M 13616 N 43RD ST 236 PHOENIX	AZ	85032-0000
CEDARCHEST STORAGE		4635 N SEVENTH ST PHOENIX	AZ	85014-0000
CENTURY PLAZA CORP		1141 W PIONEER PKWY ARLINGTON	TX	76013-6013
CHANCE	LARRY	9801 WESTHEIMER IL 61100 HOUSTON	TX	77042-0000
CHANG HWA COMMERCIAL BANK LTD		W SUB SQUAD 10 BLDG 70MAA GROTON	CT	06320-0000
CHAPIN	AMANDA	PO BOX 672 TAIPEI TAIWAN REPUBLIC OF CHINA	FA	00000-0000
CHAPIN	BRENDA	J 1819 PINEL GROVE LANE PRINCETON	IA	52768-0000
CHAPMAN	HARRIETTE	1819 PINEL GROVE LANE PRINCETON	IA	52768-0000
CHAPMAN	RANDOLPH	N 22 RIVERVIEW PARK DR BETTERDORF	IA	52722-0000
CHAPPELL	WILLIAM	W PO BOX 550 WYLLIE	TX	75098-0550
CHEFFIN	CARL	G APT 401 6860 GULFTON HOUSTON	TX	77036-0000
		D 119 BRELAND DR		



## DEPARTMENT OF FINANCIAL INSTITUTIONS

## NOTICE OF PUBLIC INFORMATION

CHEN	LINAN	MONROE	LA 71202-7414
CHENDEYEARWOO	SHOU HUA	22 HOWLAND ROAD WEST HARTFORD	CT 06107-0000
CHEPAMIE	CHRIS	M 3665 CEDARBROOK TRAIL APT A BIRMINGHAM	AL 35216-0000
CHILDRENS MED CENTER		1935 MOTOR STREET DALLAS	TX 75235-5235
CHRISTENSEN	FINN	L BARSEBAEK 120 HAREHOJEN 10 DENMARK	FA 00000-0000
CHRISTENSEN	JACOB	BARSEBAEK 120 HAREHOJEN 10 DENMARK	FA 00000-0000
CHRYSLER CREDIT CORPORATION		PO BOX 626 GREENBELT	MD 20770-0000
CHUAN	MING	T 4F NO1 SEC 2 SAN MIN RD TAICHUNG TAIWAN	FA 00000-0000
CHURCHILL	BARBARA	A 2100 EAST ADAMS TUCSON	AZ 85719-0000
CHVAL	DORIS	V IOWA CITY	IA 52240-0000
CIERO	L	M PCIA BUENOS AIRES ARGENTINA FA 00000-0000	FA 00000-0000
CIERO	RICARDO	J PCIA BUENOS AIRES ARGENTINA FA 00000-0000	FA 00000-0000
CLARK	MARK	E PO BOX 3852 AUGUSTA	GA 30914-3852
CLARK	VICKIE	L 745 MILL ST KALAMAZOO	MI 49001-0000
CLARKE	CURT	A HHD 201 SPT BN FT RILEY	KS 66442-0000
CLARKE	HARRIETTE	H 255 MAYER RD APT 354 M	

## DEPARTMENT OF FINANCIAL INSTITUTIONS

## NOTICE OF PUBLIC INFORMATION

CLERK OF SUPERIOR COURT		FRANENNUTH	MI 48734-0000
CLIREHUGH	JOHN	PO BOX 177 HALLSTEAD	PA 18822-0177
CLOVER	WAYNE	POSTACH 269 PARTEN KIRCHEN GERMANY	FA 00000-0000
COFER	BARBARA	B 209 PINETREE DR BOX 174 RED OAK	IA 51566-0000
COLBERT	BARRY	R 3647 E ELM PHOENIX	AZ 85018-0000
COLEMAN	CARLTON	1329 NARRAGANSETT ST PHILADELPHIA	PA 19138-1911
COLLIER	JAMES	F 918 W 8TH STREET APT 4 DALLAS	TX 75208-0000
COLLINS	DANIEL	E 4929 S 90TH EAST AVE TULSA	OK 74145-3000
COLLINS	LAURA	E 11411 RESEARCH BLVD 1013 AUSTIN	TX 78759-0000
COMBS	DELIA	4210 RYE GLEN DRIVE ARLINGTON	TX 76017-6017
COMBS	EDITH	T APT 130 8560 W PEORIA AVE PEORIA	AZ 85345-0000
COMMERCIAL NATIONAL BANK & TRUST		PO BOX 168 LAUREL	MS 39441-0000
COMMONWEALTH FINANCIAL		2223 W LOOP SOUTH PO 1529 HOUSTON	TX 77251-0000
CONKLIN	IVETTE	SANTA PITA RIO PIEDRAS PUERTO RICO 0 FA 00000-0000	FA 00000-0000
CONROY	SHARON	RD 1 BOX 200A W ALEXANDER	PA 15376-0000
COONS	CRAIG	801 THIRD ST	

## DEPARTMENT OF FINANCIAL INSTITUTIONS

## NOTICE OF PUBLIC INFORMATION

COOPER	RUBY	WILTON	IA	52778-0000
		M 27 STRICKLAND ROAD	CT	06807-2727
		COS COB		
CORRIN	DAVID	POSTFACH 269 8100 GARMISCH PARTEN GERMANY	FA	00000-0000
CORRINGTON	RUTH	3476 WOODS DR DECATER	GA	30032-0000
COSTELLO	MARY	2358 MW MILITARY HWY C15 SAN ANTONIO	TX	78231-0000
COUNTS	JOE	H 11944 N DURRETTE DR HOUSTON	TX	77024-0000
COUSIN	FRANCIS	L	NJ	00000-0000
COX	JOAN	2527 ELIZABETH DRIVE HELENA	AL	35080-0000
CRAIG	FRANCIS	T POB 9A 76 PANAMA 9A PANAMA	FA	00000-0000
CRAM	STEVEN	R 3349 W 29TH AVE DENVER	CO	80211-0000
CRANFORD	CLIFTON	E 4203 SUMMER BREEZE LANE SAN ANTONIO	TX	78210-0000
CRANFORD	GLORIA	M 4203 SUMMER BREEZE LANE SAN ANTONIO	TX	78210-0000
CRANK	DONALD	R PO BOX 129 FAISALABAD PAKISTAN	FA	00000-0000
CRANK	JAMES	D PO BOX 129 FAISALABAD PAKISTAN	FA	00000-0000
CRAWFORD	DILLARD	G 4804 SAN MARCUS DRIVE MESQUITE	TX	75150-1710
CREW	PHILIP	I 3820 BOER AVE S E CEDAR RAPIDS	IA	52403-2403
CREWS	MARCUS NAGNER	850 LUNT AVE		

## DEPARTMENT OF FINANCIAL INSTITUTIONS

## NOTICE OF PUBLIC INFORMATION

		ELK GROVE VILLAGE IL	6	00000-0000
		CONSTANTINOS		
		KALLITHEA ARISTIDON 18	FA	00000-0000
		ATHENS GREECE		
		PANAGIOTA		
		KALLITHEA ARISTIDON 18	FA	00000-0000
		ATHENS GREECE		
		THOMAS		
		H 3617 FOREST DR LAKE CHARLES	LA	70601-0000
		DAVID		
		S 24TH MP CO FT STEWART	GA	31314-0000
		BILL		
		C DALLAS	TX	75381-0000
		MICHAEL		
		3804 SUNFLOWER CIRCLE BOWIE	MD	20721-0000
		MEL		
		SUITE 222 1400 SOUTH SHERMAN RICHARDSON	TX	75081-0000
		PO BOX 832 BETTENDORF	IA	52722-0000
		PO BOX 832 BETTENDORF	IA	52722-0000
		W ROBERT		
		2665 HILLCREST DR WEST LINN	OR	97068-0000
		HIROKUN		
		1 5 53 KIZAMA MINAM TODA SHI SA JAPAN	FA	00000-0000
		GREAT VALLEY CORPORATE CENTER MALVERN	PA	19355-0000
		RACHEL		
		N 3408 ALTON ROAD BALTIMORE	MD	21201-0000
		WILLIAM		
		G SAN LUIS CAPITAL ARGENTINA	FA	00000-0000
		AMANULLAH		
		2807 GRANTS LAKE BLVD PO BOX 10011 SUGAR LAND	TX	77479-0000
		TRAVIS		
		B RD 1 BOX 828		

## DEPARTMENT OF FINANCIAL INSTITUTIONS

## NOTICE OF PUBLIC INFORMATION

DAVENPORT	DAVID	NEEDMOREE	PA	17238-0000
DAVEY	J	9741 W TARO LANE PEORIA	AZ	85345-0000
DAVIES	LONDON	B PO BOX 3122 ABILENE	TX	79604-0000
DAVIS	ALEX	B 99 TIDEWATER RD REHOBOTH BEACH	DE	19971-0000
DAVIS	CYNTHIA	1070 W PIERSON FLINT	MI	48505-0000
DAVIS	GERALDINE	J 3349 W 29TH AVE DENVER	CO	80211-0000
DAVIS	J	R 1415 WOODLAND BEACH PASADENA	MD	21122-0000
DAVIS	JERRY	H 6477 S SUMMIT POINT ATLANTA	GA	30092-0000
DAVIS	WILLIAM	PO BOX 3684 DAVENPORT	IA	52802-0000
DAWSON	BROOKE	I PO BOX 3684 DAVENPORT	IA	52802-0000
DBREGON	VINCENTE	POB 2200 PEARL CITY	HI	96792-0000
DEAMER	JOANNE	615 1/2 ARTHUR PORT TAUACA	TX	00000-0000
DEAMER	KERRY	9258 PIGEONWING PLACE COLUMBIA	MD	21045-0000
DECINTI	ERIC	L 9258 PIGEONWING PLACE COLUMBIA	MD	21045-0000
DECINTI	FREDERIC	3767 BRENTWOOD STAIR SUITE 230 FORT WORTH	TX	76112-0000
DEJAEGHER	JOHN	M 3767 BRENTWOOD STAIR SUITE 230 FORT WORTH	TX	76112-0000
		M 9248 WESTBURY		

## DEPARTMENT OF FINANCIAL INSTITUTIONS

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DELACOURT	HERVE	PLYMOUTH	MI	48170-0000
DELLINGER	KATHLEEN	J 74200 MARGENCEL THONON FRANCE	FA	00000-0000
DELTA DATA SYSTEMS CORP		417 CENTER ST BLOOMSBURG	PA	17815-0000
DELTA INDUSTRIES INTERNATIONAL LTD		1765 WOODHAVEN DRIVE CORNWELLS HEIGHTS	PA	19020-0000
DELWAIDE	MICHELLE	PO BOX 7605 HILTON HEAD	SC	29938-0000
DEMOS	JAMES	R 106 3600 DESCMPNGN STE FOY CANADA	FA	00000-0000
DEREQUITO	GINA LYNN	B C 303 MI FT HOOD	TX	76544-0000
DIABER	ELMER	CARLOS AVE MARTINA JUNA SUBDIVISION	ME	00000-0000
DIELEVTERIO	JOHN	261 C TIERRA GREEN VALLEY	AZ	85614-0000
DILAG	DALE	M 106 SIMCA LANE WILMINGTON	DE	19805-0000
DISTEEANO	ANTHONY	R 2626 KUELEI ST R HONOLULU	HI	96826-0000
DISTEEANO	SARH	V 8908 PADDOCK LANE POTOMAC	MD	20854-0000
DIV OF AIRWICK INDUSTRIE		L 8908 PADDOCK LANE POTOMAC	MD	20854-0000
DIXON	DIANE	3829 70TH STREET DES MOINES	IA	50322-0000
DIXON	WAYNE	B 201 NELSON STREET ROCKVILLE	MD	20850-0000
DO	DZUNG	E 201 NELSON STREET ROCKVILLE	MD	20850-0000
		T 1122 W 8TH STREET		



## DEPARTMENT OF FINANCIAL INSTITUTIONS

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ELAM	GARY	GERMANY	FA	00000-0000
		W 4150 SPRINGBROOK	TX	79762-0000
		ODESSA		
ELGIN PLAZA ASSOC		9801 WESTHEIMER IL 61100	TX	77042-0000
		HOUSTON		
ELLIS	CLINTON	3097 VALLEY MEADOW	TX	75220-0000
		DALLAS		
ELTZEROTH	HELEN	M PO BOX 37	GA	30030-0000
		DECATUR		
EMME	JANICE	L 5550 SPRING VALLEY D 22	TX	75240-0000
		DALLAS		
ENGEL	EDWARD	A 31080 MCKINNEY DR	MI	48025-0000
		FRANKLIN		
ENGEL	JOAN	P 31080 MCKINNEY DR	MI	48025-0000
		FRANKLIN		
ENGEL	PETER	31080 MCKINNEY DR	MI	48025-0000
		FRANKLIN		
ENRIQUEZ	ANTHONY	M A BTRY 1/5TH FA	KS	66442-0000
		FT RILEY		
EQUITABLE		104 EAST MAIN STREET	TX	75020-5020
		DENNISON		
ERIKSEN	LYDIA	620 LAFAYETTE ST BOX 178	IA	50704-0000
		WATERLOO		
ERRICKSON	MICHAEL	E 8TH DIV NAVAL STATION	SC	29408-0000
		CHARLESTON		
EUBANKS	RORY	RR 3 BOX 166	IA	52556-0000
		FAIRFIELD		
EVANS	ADELINE	4619 E DARROW STREETQ	AZ	85040-0000
		PHOENIX		
EVANSTON FIREPROOF WAREHOUSE INC		1571 S FLAMINGO WAY	CO	80222-0000
		DENVER		
EYE	DONALD	6301 SIERRA BLANCA DR APT 4911		

## DEPARTMENT OF FINANCIAL INSTITUTIONS

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DOERSCHUK	CLAIRE	PLAINFIELD	NJ	07063-0000
		M 1661 BURNABY SY VANCOUVER V6F 1X4	FA	00000-0000
		CANADA		
DORMAN	SUZANNE	J PO BOX 1700 EIC	TX	77251-1700
		HOUSTON		
DORMAN	VANESSA	J PO BOX 1700 EIC	TX	77251-1700
		HOUSTON		
DOWLING	T	F 303 BAY STREET	AL	35901-0000
		GADSDEN		
DUBOSE	SHARON	K 722 MOODY ST	TX	00000-0000
		GALVESTON		
DUNBAR	LOIS	35 HEDGES	TX	79701-0000
		ABILENE		
DURAN	WILLIAM	L 7970 SHERIDAN BLVD	CO	80003-0000
		WESTMINSTER		
E DIANNE LEHMAN CRNA INC		PROFIT SHARING PLAN BOX 141002	TX	75214-0000
		DALLAS		
E GREENE COMPANY		PO BOX 1017	NJ	07006-0000
		FAIRFIELD		
E I SALES INC		604 LOCUST STREET PO BOX 1635	IA	50306-1635
		DES MOINES		
E T JONES ASSOC		1605 DUKE CT	TX	00000-0000
		PLANO		
EADS	MIRE	PO BOX 61281	AZ	85082-1281
		PHOENIX		
EDMONDS	JAMES	RT 6 BOX 189	AL	35768-9132
		SCOTTSBORO		
EDWARDS	MAURICE	D 5959 HARRY HINES BLVD 808	TX	75235-0000
		DALLAS		
EHTER	GLENN	3612 DRUMORE DR	PA	19154-0000
		PHILADELPHIA		
EISELWEG	BRUCE	R 7030 BOEBLINGEN		

## DEPARTMENT OF FINANCIAL INSTITUTIONS

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FABIAN	BRENT	HOUSTON	TX	77083-0000
		921 TAFT CHEYENNE	WY	82001-0000
FAIRGRIEVE	WENDY	ADOLESTONE SURREY ENGLAND	EA	00000-0000
FARR	DENNIS	W USS OCALLAHAN FF 1051 FPO AP 966741411	EA	00000-0000
FARRAR	BILLY	M 2701 NODYNE ST NASHVILLE	TN	37214-0000
FARRAR	JULIA	M 2701 NODYNE ST NASHVILLE	TN	37214-0000
FARRIS	DOROTHY	N 3816 TITAN TRAIL DENTON	TX	76201-0000
FARRIS	W JAN	3816 TITAN TRAIL DENTON	TX	76201-0000
FAULKNER	KIMBERLY	5500 E 38TH 4 ANCHORAGE	AK	99504-0000
FAULKNER	WILLIAM	NMCB 62 B CO GULFPORT	MS	39501-0000
FINOIA	JOSEPH	169 W SHEPHERD AVE HAMDEN	CT	06514-0000
FIRST REPUBLIC BANK		PACIFIC AT ERVAY STREET PO BOX 83000 DALLAS	TX	75283-3000
FIRST REPUBLIC BANK DALLAS		PO BOX 83000 DALLAS	TX	75283-3000
FLANNERY	THOMAS	697 48TH STREET DES MOINES	IA	50312-0000
FLEET FUNDING MORTGAGE		PO DRAWER F20 FLORENCE	SC	29501-0000
FLETCHER	JAMES JOHNSON	1911 ROCKY DELLS DR PRESCOTT	AZ	86301-0000
FLETCHER	RENEE	B RT 1 BOX 153 AA		

## DEPARTMENT OF FINANCIAL INSTITUTIONS

## NOTICE OF PUBLIC INFORMATION

FLORES	A	DELHI	LA	71232-0000
		622 29TH ST CORPUS CHRISTI	TX	00000-0000
FORD	ANDREA	2215 N SEVILLE APT 1122 TUCSON	AZ	85715-0000
FORSTER	MARY	R BOX 20053 SHEEPARD AFB	TX	76311-0000
FORTE	VAN	C 5095 N JENNINGS RD FLINT	MI	48504-0000
FOURNET	M	212 MEADOWBEND LEAGUE CITY	TX	77573-0000
FRANK WEAVER PONTIAC INC		PO BOX 7488 WACO	TX	76714-0000
FRANKLIN	GARLAND	R 4508 ROBINDALE ROAD KNOXVILLE	TN	37921-3124
FRATESI	JAMES	J 1022 WESTFIELDS AVE RAHWAY	NJ	07065-0000
FREEMAN	KARLENE	T 209 WHITTINGTON COURT COLUMBIA	SC	29210-0000
FRENCH	MARIE	M 117 E ATLANTIC AVE OCEAN CITY	NJ	08226-0000
FRENCH	RUTH	E G 2477 THORNTON STREET FLINT	MI	48504-7170
FRENCH	WILLIAM	C G 2477 THORNTON STREET FLINT	MI	48504-7170
FREYTAG AND LAFORCE		500 NORTH AKARD DALLAS	TX	75201-0000
FRITTS	N	I 3600 E 88TH AVE 102 THORNTON	CO	80229-0000
FROST	HOPE	E PO BOX 98 FORT LUPTON	CO	80621-0000
FULCE	ARTHUR	5224 W LEWIS AVE		

## DEPARTMENT OF FINANCIAL INSTITUTIONS

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FULFORD	J	PHOENIX	AZ	85035-0000
		RT 1 BOX 329		
		DALEVILLE	AL	36322-0000
FULLARD	LOVELLA	4903 POE AVE	MD	21215-0000
		BAITMORE		
FUNKHOUSER	LOIS	C 5620 N MARIA DR	AZ	85704-0000
		TUCSON		
FURUE	MASUTAKA	732603HIKARIJAKA N	FA	00000-0000
		TOKYO JAPAN		
GAMON	JOHN	G BOX 21 HHC 29TH INF REGT	GA	31905-0000
		FT BENNING		
GARCIA	JUAN	509 WAYNE STREET	TX	75223-5223
		DALLAS		
GARCIA	NORMA	1320 MUSSER	TX	78040-0000
		LAREDO		
GARCIA	SEFERINO	R 310 REFUGIO STREET	TX	78210-0000
		SAN ANTONIO		
GARNICK	SHERRIE	A 7 HARRISON ST	MS	39200-0000
		JACKSON		
GARZA	GERARDO	11655 BRIARFOREST 102	TX	77077-0000
		HOUSTON		
GARZA	RACHEL	A PO BOX 133	IA	52767-0000
		PLEASANT VALLEY		
GASCH	GEORGE	A 9621 NARRANGANSETT PKWY	MD	20740-0000
		COLLEGE PK		
GATES	GAIL	3373 BENDELOW	MI	48063-0000
		ROCHESTER		
GENNE	SARA	APT 901 400 MAYNARD	MI	48104-0000
		ANN ARBOR		
GENTRY	BARBARA	J 1716 DAWSON WAY	CO	80012-0000
		AURORA		
GENTRY	BUZZ	L 1716 DAWSON WAY		

## DEPARTMENT OF FINANCIAL INSTITUTIONS

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GERWIG	SHARON	AURORA	CO	80012-0000
		J PARKER AVENUE		
		HACKENSACK	NJ	07601-0000
GIBSON	DOUGLAS	1605 NORTH WELLINGTON ST	PA	19121-0000
		PHILADELPHIA		
GILL	RICHARD	T 506 AVENUE J	TX	79501-0000
		ANSON		
GILL	RICHARD MARCUS	1416 HICKORY ST	TX	75050-0000
		GRAND PRAIRIE		
GILLUM	KAREN	400 W KERNEY SUITE B	TX	75149-5149
		MESQUITE		
GIORDANO	CARL	J RD 1 BOX 414	NJ	08559-0000
		STOCKTON		
GIOTTA	MARIA	G 87040 MARANO MARCHESATO	FA	00000-0000
		CONSENZA ITALY		
GIST	HORACE	L APT D 7428 CHESTERFIELD DRIVE	TX	75237-3000
		DALLAS		
GIVEN	LOUIS	E 706 BLACKER ST	TX	79902-0000
		EL PASO		
GLASSMAN	BERNARD	S 24 MOUNTAIN FARMS RD	CT	06107-0000
		WEST HARTFORD		
GOGAL	THOMAS	2814 WALKER ST	GA	31906-0000
		COLUMBUS		
GOLD RUSH FOODS		PO BOX 26647	OK	73126-0000
		OKLAHOMA CITY		
GOLDBERG	EISEEN	Y 15752 E CHOLLA DRIVE	AZ	82268-0000
		FOUNTAIN HILL		
GOLSTEIN	ZELDA	APT 63 1702 W TUCKLEY LN	AZ	85015-0000
		PHOENIX		
GONZALEZ	VICTORIA	1335 WILLERSLEY	TX	77430-0000
		CHANNELVIEW		
GOODBAR	KATHERINE	R 6621 SUNNYLAND LANE		



## DEPARTMENT OF FINANCIAL INSTITUTIONS

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GOODIN	RYAN	DALLAS	TX	75214-0000
	N 9908 KILLARNEY LANE DEPT 202			
	GAITHERSBURG	MD	20879-0000	
GOODWIN	J	E 9963 W ARLINGTON AVE	CO	80123-0000
	LITTLETON			
GOOLSBY	J	E 85 SUNSET LANE	CT	06794-0000
	WASHINGTON DEPOT			
GORDON	BOBBY	3642 G FALLING SPRING RD	SC	29210-0000
	COLUMBIA			
GORKA	JONATHAN	1910 WESTMEAD	TX	77077-0000
	HOUSTON			
GRAHAM	JOHN	RTE 2	TN	37708-0000
	BEAN STATION			
GRAVES	DANNY	L PO BOX 624	AL	35961-0000
	COLLINSVILLE			
GRAVLEY	S	D 2755 ALABAMA RD	GA	30101-0000
	ACWORTH			
GREEN	FRED	3510 JERSEY RIDGE RD	IA	52803-2803
	DAVENPORT			
GREEN	MARTIN	3386 STU SQ	MS	39534-0000
	KAFB			
GREEN	TIMOTHY	PO BOX 101	LA	71043-0000
	HOSSTON			
GREER	WILLIE	L 5555 ROSWELL RD	GA	30342-0000
	ATLANTA			
GREMMELS	DEBORA	K RR 8 BOX 694A	GA	30130-0000
	CUMMING			
GREMMELS	KENNETH	D RR 8 BOX 694A	GA	30130-0000
	CUMMING			
GREMMELS	MELISSA	L RR 8 BOX 694A	GA	30130-0000
	CUMMING			
GRIFFITH	S	H 5110 GASTON AVE		

## DEPARTMENT OF FINANCIAL INSTITUTIONS

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GRINDE	FATHREN	DALLAS	TX	75214-0000
	S 1605 S E LIBERTY			
	GRESHAM	OR	97130-0000	
GROESBECK	RENEVIEVE	1399 E CLAIRVIEW COURT	MI	48236-0000
	GROSSE PTE			
GUIERREZ	E	F 2034 W WASHINGTON	AZ	85000-0000
	PHOENIX			
GUIERREZ	E	D 5612 S 16TH AVE	AZ	85041-0000
	PHOENIX			
GUMP	CHARLES	E PO BOX 931	FA	00000-0000
	AGANA	96910 GUAM		
GUTLIERREZ	DANIEL	4070 WINLER SUNRISE	TX	78219-0000
	SAN ANTONIO			
H C SCHMIDT	INC		DE	00000-0000
HALE	JOHN	A PO BOX 2582	MS	39505-9505
	GULFPORT			
HALEY	BEATRICE	S 3575 KENWOOD DR	TX	77706-0000
	BEAUMONT			
HALL	JACK	PO BOX 323	TX	75113-0000
	BONHAM			
HAMANN	ANGELA	BLUMENESCH 26 4500 OSNABRUCK	FA	00000-0000
	WEST GERMANY			
HAMILTON	R	E 840 A CHURCH STREET	GA	30060-0000
	MARIETTA			
HAMM	PONALD	1807 FOSTER ST	AL	36114-0000
	MONTGOMERY			
HAMMOND	DEBORAH	C 604 WILKES RD	SC	29203-0000
	COLUMBIA			
HAMMOND	J	M 3950 E BLACKLEDG 208	AZ	85712-0000
	TUCSON			
HANEN	IRVING	241 3RD AVE N		

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HANER	D	CLINTON	IA	52732-0000
		7200 GLOWWORM CIRCLE AUSTIN	TX	78744-0000
HANNA	JAMES	A 22751 DAVIS LOT 1 THREE RIVERS	MI	49093-0000
HANSEN	DORIS	M 9514 GRANADA DR SUN CITY	AZ	85373-0000
HANSEN	JEFFREY	420 E 6TH ST CARROLL	IA	51401-0000
HARDEN	JOSEPH	L 501 LISTER RD LAYDRUM	SC	29356-9265
HARRELL	JACQUELYN	K 3024 SESBANIA ST AUSTIN	TX	78748-1912
HARRELL	WALTER	SVC BTRY 1/12TH FA FT SILL	OK	73503-0000
HARRIS	DAVID	L 7601 CALLE SIN ENVIDIA 48 TUCSON	AZ	85718-1273
HARRIS	MARK	G USS MAHAN DDG 42 B DIV FPO AA 340921260	PA	00000-0000
HARRIS	MARY	132 GRAHAM ST STANFORD	CT	06497-0000
HARRIS	MAYME	E 7601 CALLE SIN ENVIDIA 48 TUCSON	AZ	85718-1273
HARRIS	REGINALD	J 2284 MAPLE BROOK SOUTHFIELD	MI	48034-0000
HARRIS	ROBERT	E 8211 KINGSBROOK APT 202 HOUSTON	TX	77024-0000
HART	PAMELA	P PSC BOX 2575 APO MIAMI 34002 PANAMA	PA	00000-0000
HARTZELL	CRAIG	1009 REGIMENTAL WEST CHESTER	PA	19382-0000
HASMUHK	NEELE	5 BROAD STREET		

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		DENVILLE	NJ	07834-0000
		5 BROAD STREET DENVILLE	NJ	07834-0000
	HATFIELD	JAMES	PA	18976-0000
		P APT E 60 600 VALLEY RD WARRINGTON	PA	18976-0000
	HATTER	ANNA	AZ	85082-1281
		M PO BOX 61281 PHOENIX	AZ	85082-1281
	HAWKEYE	PO BOX 18 DES MOINES	IA	50306-0000
	HAWKEYE SECURITY	PO BOX 18 DES MOINES	IA	50306-0000
	HAWKINS	D	TX	77058-0000
		V 1250 BAY AREA BLVD HOUSTON	TX	77058-0000
	HAWKINS	MARIE	TX	77033-0000
		L 5927 WESTOVER HOUSTON	TX	77033-0000
	HAZELTON NATIONAL BANK	101 WEST BROAD STREET HAZELTON	PA	18201-0000
	HEARTLAND RAIL CORP	800 WEBSTER IOWA CITY	IA	52240-0000
	HECK	JEFFREY	AZ	85029-0000
		S 2145 W LUPINE PHOENIX	AZ	85029-0000
	HENDRICKSON	EDWARD	AZ	85281-0000
		J 1233 W ELNA RAE TEMPE	AZ	85281-0000
	HENDRICKSON	PAMELA	AZ	85281-0000
		A 1233 W ELNA RAE TEMPE	AZ	85281-0000
	HENGSTEBECK	CARL	TX	76544-0000
		J B CO 54TH SIGNAL BN FT HOOD	TX	76544-0000
	HICKORY BARK WOODWORKS	RT 2 BOX 187 PERRY	IA	50200-0200
	HIGHBERGER	LARRY	OK	74012-0000
		W 1204 W KNOXVILLE BROKEN ARROW	OK	74012-0000
	HILGENFELD	ROBERT		
		M 4206 COMANCHE		

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HILL	DONALD	LARAMIE	WY 82070-0000
	J 1105 SO BROADWAY LA PORTE	TX 77571-0000	
HILL	EVE	7870 CAMELBACK RD APT 212/30 SCOTSDALE	AZ 85251-0000
HILL	NATHAN	7870 CAMELBACK RD APT 212/30 SCOTSDALE	AZ 85251-0000
HLUBCEK	DONALD	T 2222 FIRST AVENUE NORTHEAST CEDAR RAPIDS	IA 52402-0000
HLUBCEK	THEODORE	2222 FIRST AVENUE NORTHEAST CEDAR RAPIDS	IA 52402-0000
HMANWRIGHT	G	1723 3RD AVE W BIRMINGHAM	AL 35208-0000
HOFMOEL	FRDERIC	W PO BOX 231 BROWNSVILLE	TX 78520-0000
HOGUE	JOHN	M 1221 N AVE B DENVER CITY	TX 79323-2265
HOLIDAY INN		INC	DE 00000-0000
HOLIDAY INN MEMORIAL PLAZA		2100 MEMORIAL DR HOUSTON	TX 77007-0000
HONG	HSIU	C 4F NO1 SEC 2 SAN MIN RD TAICHUNG TAIWAN	FA 00000-0000
HORAN	JEAN ANN	123 WOODHILL RD WILMINGTON	DE 19809-0000
HOSHINO	HIROSHI	ASAHI KU 1 36 FUTAMATAGAWA YOKOHAMA JAPAN	FA 00000-0000
HOSOYA	TOSHIKO	TOKYO 153 JAPAN 1 21 1 KONABA MAGURO JAPAN	FA 00000-0000
HOWARD	W JR	E PO BOX 168 LAUREL	MS 39441-0000
HOWARD BUILT		5617 GHARRETT STREET	

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	HOWELL	MISSOULA	MT 59803-0000
	B	E 2006 FRANKLIN STE 202 HUNTSVILLE	AL 35801-0000
	HUANG	C 7F1 493 CHIEN KUO 3RD RD PAOSHING TA REPUBLIC OF CHINA	FA 00000-0000
	HUBBARD	WILLIAM PO BOX 354 KATY	TX 77442-3000
	HUGH P CHAMPAGNE APC	PO BOX 1344 GREINA	LA 70054-3000
	HUGHES	POBERT BLDG 85C KNOXVILLE VA HOSPITAL KNOXVILLE	IA 50138-0000
	HUGUENARD	JOYCE F 14415 BROADGEEN HOUSTON	TX 77079-0000
	HUGUENARD	SONJA 14415 BROADGEEN HOUSTON	TX 77079-0000
	HULL	BARBARA M 675 W LAS COMITAS RD TUCSON	AZ 85704-0000
	HUNT	C 1217 OAK HOLLOW DICKINSON	TX 77539-0000
	HUNTER	DON E PO BOX 1790 ANNAPOLIS	MD 21404-0000
	HUNTER	FLOYD H 1619 PARKWAY DRIVE BETTENDORF	IA 52722-0000
	HURST	DANIEL 87040 MARANO MARCHESATO CONSENZA ITALY	FA 00000-0000
	HURST	ELGA N 87040 MARANO MARCHESATO CONSENZA ITALY	FA 00000-0000
	IGLESIAS	ABRAHAM M B CO 1/75 RGR BN HUNTER AAF	GA 31409-0000
	IHARA	NORIMICHI 4 ROKUBANCHO CHIYODA KU TOKYO 102 JA JAPAN	FA 00000-0000
	IHARA	YONE 4 ROKUBANCHO CHIYODA KU TOKYO 102 JA	



## DEPARTMENT OF FINANCIAL INSTITUTIONS

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IIDA	YOSHIO	JAPAN	FA	00000-0000	
		2214 SHINZAIKE HIPA KAKOGANA CITY JAPAN	FA	00000-0000	
INDEPENDENCE VILLAGE		255 MAYER RD APT 354 M FRANENMUTH	MI	48734-0000	
INGRAM	ODRIA	O 2414 RIVERA DRIVE TYLER	TX	75707-0000	
INNOVATIVE OFFICE SYSTEMS		14875 LANDMARK BLVD ST 400 DALLAS	TX	75240-5240	
INTERNAT L FACILITY MGMT		1 GREENWAY PLAZA HOUSTON	TX	00000-0000	
IOWA CITY PRESS		PO BOX 2480 IOWA CITY	IA	52244-2244	
ISENBERG	D	MARKHAM ONTARIO L3R 4 CANADA	FA	00000-0000	
ITS INC		PO BOX 4965 DES MOINES	IA	50306-0000	
IZAWA	RIEKO	7 24 24 210 MINAMISENJU ARAKAWA KU ILL JAPAN	FA	00000-0000	
JABLOW	HARRY	B 827 MEDICAL ARTS BUILDING DALLAS	TX	75201-0000	
JACKSON	DANIEL	51252 MESCALERO FT HOOD	TX	76544-0000	
JACKSON	ERIC	R 402 W 18TH C 11 JUNCTION CITY	KS	66441-0000	
JACKSON	JOHNNY	RR 3 BOX 52 LINDEN	TX	75563-9429	
JAMES WOOD MOTORS INC		PO BOX 479 DECATUR	TX	76234-0000	
JAMISON	BEVERLY	405 BULL RUN LEAGUE CITY	TX	77573-0000	
JANDAR INC		660 N MICHIGAN AVE			

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	JOSE	KENILWORTH	NJ	07033-0000	
		M ST CUGATDEK VALLES SPAIN BARSALONA	FA	00000-0000	
	CHARLES	605 ATKINSON 4 KILLEEN	TX	76541-1000	
	CLARENCE	20 MICHAEL ST FT RUCKER	AL	36362-0000	
	ROONEY	J BOX 1042 NEWTON	IA	50208-0000	
	FRANK	R 2222 HEALTH SC MALL VANCOUVER CANADA	FA	00000-0000	
	JAMES	C USA	FA	00000-0000	
	RUDDOLPH	312 DENMARK ST STATEBORO	GA	30458-0000	
	TIMOTHY	3747 DENVER CORPUS CHRISTI	TX	78412-0000	
	IAN	M PO BOX 622 PENROSE	CO	81240-0000	
	SUZANNE	F PO BOX 622 PENROSE	CO	81240-0000	
	KATHLEEN	14433 ASTRODOME DRIVE SILVER SPRINGS	MD	20906-0000	
	ESTELLA	6515 NO 69TH LANE GLENDALE	AZ	85303-0000	
	J		WY	00000-0000	
	MARIO	8657 1 CENTRAL DR FT HOOD	TX	76544-0000	
	MARY	T 70 PINETREE CIRCLE DECATUR	GA	00000-0000	
	ANITA	SAN MIGUEL DEALLENDE	GTO MEXICO		

## DEPARTMENT OF FINANCIAL INSTITUTIONS

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KARLE	RODNEY	5TH CO 3RD BN USACA FT RILEY	KS	66442-0000	FA	00000-0000
KAPACHUK	D	LONDON SW1X9 ENGLAND	FA	00000-0000		
KARELITZ	SIGMUND	515 W WILLIAMS ST BRECKENRIDGE	TX	76024-0000		
KARLA	REILE	M 417 5TH AVE NE OSSEO	MI	00000-0000		
KEHIAS	VICKIE	R PO BOX 122 INKSTER	MI	48141-0000		
KEIMIG	DANA	A APARTMENT 10 2330 EAST LOCUST ST DAVENPORT	IA	52803-0000		
KELLEY	CAROLYN	A 2861 S 96TH EAST PLACE TULSA	OK	00000-0000		
KELLY	RICHARD	C 6 WEDGEWOOD VILLAGE ROUTE 2 MONTGOMERY	AL	36108-0000		
KENNERMER HOTEL COMPANY		ROUTE 6 PARIS	TX	75460-0000		
KENTNER	MARCIA	302 SO UNION WEST UNION	IA	52175-0000		
KENTNER	MARK	B 302 SO UNION WEST UNION	IA	52175-0000		
KENTWOOD SCHWINN		PO BOX 935 GRANDVILLE	MI	49468-0000		
KERRIGAN	LESLIE ANN	CASILLA 691 QUITO ECUADOR	FA	00000-0000		
KING	JEFF	1409 3000 WOODLAND PARK DR HOUSTON	TX	77082-0000		
KING	R	L RR 1 GRAND MOUND	IA	52751-0000		
KINGS PRECISION CASTING CO		8 TA YU 2ND ST TALIAO VILLAGE KAOHSI				

## DEPARTMENT OF FINANCIAL INSTITUTIONS

## NOTICE OF PUBLIC INFORMATION

KINGS PREMIUM SERVICE		10 E MERRICK RD VALLEY ST	PA	15580-0000	FA	00000-0000
KINMAN	RAYMOND	L APT 3 1215 E 4TH STREET VINTON	IA	52349-0000		
KLASA	STANISLAS	5615 BEAUCOURT MONTREAL QUEBEC CAN	FA	00000-0000		
KLECKNER	KATHY	J 1718 S W 31ST STREET ALLENTOWN	PA	19103-0000		
KLEIN	D	B 711 ST ANDREWS BLVD CHARLESTON	SC	29407-0000		
KLETZEL	JOSEPH	E 235 PINNACLE POINTE DULUTH	GA	30136-0000		
KLETZEL	MARGARET	235 PINNACLE POINTE DULUTH	GA	30136-0000		
KLING	SALLY	PO BOX 83 BEACHWOOD	NJ	08722-0000		
KNIGHT	CURTIS	E PO BOX 519 BERNICE	LA	71222-0000		
KNIGHT	JOSEPH	K 3830 N LATONKA ROAD LITTLETON	CO	80123-0000		
KNIGHT	TERESA	J 3830 N LATONKA ROAD LITTLETON	CO	80123-0000		
KOCH	THERESA	4619 E DARROW STREETQ PHOENIX	AZ	85040-0000		
KOCHANCZYK	RAYMOND	W PO BOX 4381 HOUSTON	TX	77210-0000		
KOHN	JEFFREY	L APT 6 14 ZERACH BARNET ST HARNOF JERUSALEM	FA	00000-0000		
KOLLOFF	JOHN	F 2085 2020 E IVERNESS MESA	AZ	85204-0000		
KOSOWSKI	PATRICK	E 236 8947 GAYLORD				

## DEPARTMENT OF FINANCIAL INSTITUTIONS

## NOTICE OF PUBLIC INFORMATION

KOWZAN	ZOZISLAW	HOUSTON	TX	77024-0000
		2109 NW 70TH AVE ANKENY	IA	50021-0000
KRAEMER	NELSON	A 1084 HWY 307 THIBODAUX	LA	70301-0000
KRAJEWSKI	ALFRED	F 315 WATER AVE LOUISVILLE	MS	39339-0000
KRAJEWSKI	MARY LOU	315 WATER AVE LOUISVILLE	MS	39339-0000
KRAMER	KELLI	A 1626 W 15TH A DAVENPORT	IA	52804-0000
KRASNER	BENJAMIN	4601 SHERIDAN ROAD DENVER	CO	80212-0000
KRASTEL	BRUCE	C 1895 WENTZ RD QUAKERTOWN	PA	18951-0000
KRONINGS LTD		ST CHARLES	MI	48159-0000
KRUMREICH	THEODORE	A 9601 W 97TH OVERLAND PARK	KS	66212-0000
KRUMREICH	THEODORE	H 9601 W 97TH OVERLAND PARK	KS	66212-0000
KRUSKAL	CLYDE	COLLEGE PARK	MD	20742-0000
KUNIK	THOMAS	C HHC 16TH SIGNAL FT HOOD	TX	76544-0000
KUNTZ	TIMOTHY	E RT 4 BOX 243 BLK CITY	OK	73644-0000
L S TOOLS INC		PO BOX 67 ALBIA	IA	52531-0000
LAFKA	NIKOLINA MARIN	ILIOUPOLIS DODEKANISSOU 11 ATHENS GREECE	FA	00000-0000
LAFKAS	ATHANASIOS	ILIOUPOLIS DODEKANISSOU 11		

## DEPARTMENT OF FINANCIAL INSTITUTIONS

## NOTICE OF PUBLIC INFORMATION

LAHTINEN	BART	ATHENS GREECE	FA	00000-0000
		R PO BOX 3423 ANN ARBOR	MI	48106-3423
LAMAR	CHARLES	M 1801 CALIFORNIA 2740 DENVER	CO	80202-0000
LAMBEN	DEBBIE	L	IA	00000-0000
LAMOURIE	P	C 9804 MANOR ALLEN PARK	MI	48101-0000
LANG	FRANK	1924 AVE K 2 GALVESTON	TX	77533-7533
LANG	MICHAEL	R 502 IRIS GLN PEACHTREE CITY	GA	30269-2913
LANG	SIMON	R 200 W 7TH ST SUITE 2120 FORT WORTH	TX	76102-0000
LANGHART	URS	SONNWATT 8 8806 BAECH SWITZERLAND	FA	00000-0000
LANGSTON	THOMAS	F 16718 GLASTONBUNT DETROIT	MI	48219-4136
LAVENDER	LLOYD	L 8002 HIDDEN OAK LANE HOUSTON	TX	77095-0000
LAVENDER	MARY	L 8002 HIDDEN OAK LANE HOUSTON	TX	77095-0000
LAWSON	WILLIAM	11931 BAMMELL LANE SAN ANTONIO	TX	78213-8213
LEAGUE	SEAN	R 3317 S CHERRY ST DENVER	CO	80222-0000
LEBEKOS	SPYROS	27 ELLEN ST RANDWICK N S W SYDEUX AUSTRALIA	FA	00000-0000
LECKRONE	KAREN	S 233 E MICHIGAN PHOENIX	AZ	85022-0000
LECKRONE	ROBERT	E 233 E MICHIGAN		



## DEPARTMENT OF FINANCIAL INSTITUTIONS

## NOTICE OF PUBLIC INFORMATION

LEEMON	TONY	PHOENIX	AZ	85022-0000
	L 6 DANFORTH RD APT 130	NASHUA	NH	03060-0000
LEFEBURE	PO BOX 2028	CEDAR RAPIDS	IA	52406-2028
LEIBSOHN	LINDA	J 1050 LANGMORE APT 41	AZ	85203-0000
	MESA			
LEIJA	RAUL	422 ANNA	TX	75638-0000
	DANGERFIELD			
LEMPEKOS	GEORGIOS	27 ELLEN ST RANDWICK N S W	FA	00000-0000
	SYDEUX AUSTRALIA			
LENGELING	DELBERT	440 SOUTH MAIN	IA	51401-0000
	CARROLL			
LENGELING	MADELINE	440 SOUTH MAIN	IA	51401-0000
	CARROLL			
LEVEN	AMY	C 825 W OSBORN APT 4021	AZ	85013-0000
	PHOENIX			
LEWIS	ALLEN	B PO BOX 164 RTE 2	AR	71675-0000
	MINTICELLA			
LIAO	WINSTON	Y 16631 N 56TH ST 1057	AZ	85254-1242
	SCOTTS DALE			
LINABERGER	WALTER	A BRIGHTWOOD NURSING CENTER	WV	26037-0000
	FOLLANSBEE			
LINDSEY	E	M 313 S FIFTH STREET	AL	35901-0000
	GADSDEN			
LOPEZ	GILBERT	2849 N 7TH ST	PA	19133-0000
	PHILADELPHIA			
LOSASSO	M	R 9295 PERRY	CO	80030-0000
	WESTMINSTER			
LOVELL	CATHLEEN	A 3409 S RURAL RD	AZ	85282-0000
	TEMPE			
LOWERY	THOMAS	12866 WEDGEWOOD		

## DEPARTMENT OF FINANCIAL INSTITUTIONS

## NOTICE OF PUBLIC INFORMATION

LOWERY	W	BAKER	LA	70714-0000
	L 10442 DUNVEGAN	HOUSTON	TX	77013-0000
LUBAR	DAVID	G 16578 E PRENTICE PL	CO	80015-0000
	AURORA			
LUBAR	PATRICIA	D 9951 W PROGRESS PL	CO	80123-0000
	LITTLETON			
LUTZ	RONALD	2203 RIVIERA DR	TX	00000-0000
	LEAGUE CITY			
MABRY		2601 BONIFACE PKWY	AK	00000-0000
	ANCHORAGE			
MACDONALD	BARBARA	5380 BLENHEIM V6N1P	FA	00000-0000
	VANCOUVER CANADA			
MACDONALD	KENNETH	5380 BLENHEIM V6N1P	FA	00000-0000
	VANCOUVER CANADA			
MACDONALD	ROBERT	W 10312 GULF HILLS DRIVE	AZ	85351-0000
	SUN CITY			
MACKAY	BARBARA	M 1814 ROCKINGHAM RD	IA	52802-0000
	DAVENPORT			
MACKAY	GEORGE	G 1814 ROCKINGHAM RD	IA	52802-0000
	DAVENPORT			
MADDI	JULIE	N BOX 1383	AZ	86336-0000
	SEDONA			
MAKOWSKY	MICHAEL	BARNEYS 55 MAIN ST	NJ	07505-0000
	PATERSON			
MANGIN	RONALD	PO BOX 649 MANILA	2800 PHILIPPINES	FA 00000-0000
MANKIN	HOWARD	E 3435 WESTHEIMER RD APT 214	TX	77027-0000
	HOUSTON			
MANN	FREEMAN	BOX 305	MT	59821-0000
	ARLEE			
MANNELITO	ANTHONY	PO BOX 752		

## DEPARTMENT OF FINANCIAL INSTITUTIONS

## NOTICE OF PUBLIC INFORMATION

MANUFACTURING CONSULTANTS	FORT DEFIANCE	AZ	86504-0000
	541 W THIRD ST DUBUQUE	IA	52001-0000
MANZO	KENNETH	TX	77627-0000
	1711 29TH ST NEDERLAND	TX	77627-0000
MAPLE CYCLERY	ONTARIO 65 KING ST W DUNDAS CANADA	FA	00000-0000
MARCY	PEARL	FA	00000-0000
	APARTADO 1497 TEGUCIGALPA HONDURAS	FA	00000-0000
MARTIN	DANIEL	TX	76051-0000
	J 2400 TIMBERLINE APT 257 GRAPEVINE	TX	76051-0000
MARUI	KATSUMI	FA	00000-0000
	1015 KATSUMI JAPAN	FA	00000-0000
MARYLAND STATE LAW DEPARTMENT	200 SAINT PAUL PLACE BALTIMORE	MD	21202-0000
MASITANO	TINA	TX	78539-0000
	RT 7 BOX 207A ENDENBURG	TX	78539-0000
MASON	CAROL	TX	76053-0000
	301 LOOP 820 NE HOUSTON	TX	76053-0000
MATHIAS	ETHEL	TX	76115-0000
	S 2140 JACOBS LN FORT WORTH	TX	76115-0000
MATTHEWS	FRANK	TX	77586-7586
	F 823 BARON RIDGE DR SEABROOK	TX	77586-7586
MAURYA	S	FA	00000-0000
	N PO BOX 3020 MOZOGORO TAZNANIA EAST AFRICA	FA	00000-0000
MAXWELL	NKAJIMEJE	FA	00000-0000
	NIGERIA NSUKKA ENUGA	FA	00000-0000
MAYOR DAY & CALDWELL	TEX IND ENE 1900 REPUBLIC BK CTR HOUSTON	TX	77002-7002
MAZURE	STEWART	AZ	85018-0000
	5314 N 44ST PHOENIX	AZ	85018-0000
MCBEE	JACKY		
	34653 CLARKSON E		

## DEPARTMENT OF FINANCIAL INSTITUTIONS

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MCCABE	BERTHA	DALLAS	TX	75219-0000
	L 3411 E MONTE VISTA DR TUCSON	AZ	85716-0000	
MCCAIN	PAULA	HOUSTON	TX	77028-0000
	R 10909 GULF FRWY 2401	TX	77028-0000	
MCCULLOH	STEPHEN	LAUREL	MD	20707-0000
	E 15734 ASLAND DR	MD	20707-0000	
MCDOWELL	TARA	M 7136 VILLAGE DR PRAIRIE VILLAGE	KS	66208-2856
MCCEE	CARL	W 91ST CHEM CO FT STEWART	GA	31314-0000
MCCEE	EUGENE	1122 7TH ST SE CEDAR RAPIDS	IA	52403-0000
MCGILL	ALICE	J ROUTE 3 BOX 3251 BOERNE	TX	78006-0000
MCHAMM	PAULINE	10610 S 48TH ST 1105 PHOENIX	AZ	85044-0000
MCI TELECOMMUNICATIONS		PO BOX 371369 PITTSBURGH	PA	15250-7369
MCREE	PATRICIA	A PO BOX 38622 DALLAS	TX	75238-0000
MCKEOWN	F	M 8269 S BALSAM STREET LITTLETON	CO	80123-0000
MCKEOWN	MARILYN	K 8269 S BALSAM STREET LITTLETON	CO	80123-0000
MCNEAR	ERIC	5515 N 7TH ST STE 5 232 PHOENIX	AZ	85014-0000
MEAD	NANCY	L 27 STRICKLAND ROAD COS COB	CT	06807-2727
MEADOWS	JOHN	533 TRANS CO FT BENNING	GA	31905-0000
MEANS	L	B 1400 HENDERSON NUMBER 1		

## DEPARTMENT OF FINANCIAL INSTITUTIONS

## NOTICE OF PUBLIC INFORMATION

MEDICAL PLAZA HOSPITAL	ANGLETON	TX	77515-0000
	PO BOX 910017	TX	75391-0000
	DALLAS		
MEDICARE DATA SERVICES INC	3 ROMAINE ROAD		
	MOUNTAIN LAKES	NJ	07046-0000
MEIER	KIRBY		
	C 14001 OAK MEADOWS 1412	TX	78148-0000
	UNIVERSAL CITY		
MELTON	1225 WILDGAME RD		
	SUMMERVILLE	SC	29483-0000
MENSAH	DORIS		
	6400 INDEPENDANCE PARKWAY	TX	75203-0000
	PLANO		
MEREDITH	CRAIG		
	E USS BLUE RIDGE LCC 19 M DIV		
	FPO AP 966283300	FA	00000-0000
MEYER	CHARLENE		
	G 6810 MEADOWWOOD PLACE	CO	80918-0000
	COLORADO SPRINGS		
MEYER	KIM		
	J BOX 103	IA	52750-0103
	GOOSE LAKE		
MEYER	ROBERT		
	F 6810 MEADOWWOOD PLACE	CO	80918-0000
	COLORADO SPRINGS		
MICKENS	HAYWARD		
	I ST THOMAS VIRGIN ISLANDS	FA	00000-0000
MIDLAND MORT CO			
	PO BOX 26648		
	OKLAHOMA CITY	OK	73120-0000
MILLS	NANCY		
	M 194 MEADOW RIDGE ROAD		
	SMITHVILLE	NJ	08201-0000
MILOSEVIC	MILICA		
	VASE SAVICA 56 34300	ARANDJELOVIAC	
	YUGOSLAVIA	FA	00000-0000
MILOSEVIC	ZIVOTA		
	VASE SAVICA 56 34300	ARANDJELOVIAC	
	YUGOSLAVIA	FA	00000-0000
MILTON	ANTHONY		
	148 STONEWALL		
	MEMPHIS	TN	38104-0000
MINCK	SCOTT		
	A		

## DEPARTMENT OF FINANCIAL INSTITUTIONS

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MIRANDA	ABELARDO		
	C PAMPANGA 02001	PHILIPPINES	
		FA	00000-0000
MISKO LIMITED			
	2 FI GLORIOUS SUN IND 97 HOW MING ST.		
	KWUN TONG	HK	00000-0000
MISURACO	STELLA		
	I 7041 WEST 79TH STREET	TX	77024-0000
	BURBANK		
MITOV	GENISLAVA		
	A 4668 GLENFOREST DR	GA	30075-0000
	ROSWELL		
MIYAHARA	ATSUMU		
	12 10 SHYWACHYO HIGASHIOSAKA 579	FA	00000-0000
	JAPAN		
MIYAHARA	ATSUMU		
	12010 SHYWACHYO HIGASHIOSAKA 579	FA	00000-0000
	JAPAN		
MK CLIENT GENERATRS			
	1112 W BEN WHITE BLVD STE 320		
	AUSTIN	TX	78704-0000
MOLE	TIMOTHY		
	D 2414 PLANTERS HOUSE LANE	TX	77449-0000
	KATY		
MONAGHAN	JANINE		
	1430 STONE MEADOWS DR	KS	66049-3827
	LAWRENCE		
MONAGHAN	JOHN		
	1430 STONE MEADOWS DR	KS	66049-3827
	LAWRENCE		
MONROE	WILLIE		
	510 SUNSET LN D	TX	76522-0000
	COPPERAS CORCE		
MOORE	MARY		
	R 407 ORELAND MILL RD	PA	19075-0000
	ORELAND		
MORAINÉ	F		
	E PO BOX 3187		
	NETIVIT ISRAEL	FA	00000-0000
MORAINÉ	REUVEN		
	A PO BOX 3187	FA	00000-0000
	NETIVIT ISRAEL		
MORAN	THERESA		
	RAHEEN CO 26 GARAVOGUE RD	FA	00000-0000
	LIMERICK IRELAND		
MORAN	WILLIAM		
	RAHEEN CO 26 GARAVOGUE RD		



## DEPARTMENT OF FINANCIAL INSTITUTIONS

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MORRIS	ISAAC	M 256 CHADS FORD WAY ROSWELL	FA 00000-0000	IRELAND
MORRIS	TOMMIE	2128 BRIAR GATE DR MONTGOMERY	AL 36116-0000	
MORRISON	RETA	35 HEDGES ABILINE	TX 79701-0000	
MOUNTS	ELLEN	M 208 FOXCROFT CIRCLE SCARBOROUGH	ME 00000-0000	
MOUNTS	TIMOTHY	L 208 FOXCROFT CIRCLE SCARBOROUGH	ME 00000-0000	
MSA ENERGY		SUITE 222 1400 SOUTH SHERMAN RICHARDSON	TX 75081-0000	
MUELLER	DONALD	R 12511 CORRINGTON HILL DRIVE GAITHERBURG	MD 20878-0000	
MUELLER	VIRGINIA	12511 CORRINGTON HILL DRIVE GAITHERBURG	MD 20878-0000	
MULLER	MARY	APT 13 905 S 4TH ST HORSESHOE BEND	AR 72512-3742	
MURPHY	JOHN	M 9832 E DODGE EAST MESA	AZ 85207-0000	
MURRIN	B	18711 EGRET BAY 21 HOUSTON	TX 77058-0000	
MUSKE	SHAWN	P 8 EDGEWOOD RD PORTSMOUTH	NH 03801-5743	
MYERS	K	A PO BOX 131 MACEDONIA	IA 51549-0000	
NACKERUD	WALTER	N RTE ONE BOX 197 CHELSEA	OK 74016-0000	
NASSRAH	PAUL	K 41 GREENWOOD LANE MONROE	CT 06468-0000	
NATHAN HILL & EVE HILL TRUST		7870 CAMELBACK RD APT 212/30		

## DEPARTMENT OF FINANCIAL INSTITUTIONS

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			SCOTTSDALE	AZ 85251-0000
	NBI INC		5595 EAST ARAPAHOE AVE BOULDER	CO 80303-0000
	NCR CORP		PO BOX 3695 DALLAS	TX 75285-0000
	NELSON	THOMAS	C 10844 ELMCREST DRIVE CLIVE	IA 50022-0000
	NENTER	MITCHELL	B CO 1/41 MECH INF FT HOOD	TX 76544-0000
	NEUMAYER	HELEN	B 81 HILLCREST AVE WETHERSFIELD	CT 06109-0000
	NEWMAN	KENNETH	R HHB HQ CMD FT SILL	OK 73503-0000
	NICHOLAS	PHILLIP	30556 PURITAN LIVONIA	MI 48154-0000
	NORFOR	J	2921 E WIER PHOENIX	AZ 85040-0000
	NORTH AMERICAN ADMINISTRATION		6868 N 7TH AVE PO BOX 35276 PHOENIX	AZ 85013-0000
	NORTHEAST ELECTROSTATIC		PO BOX 583 250 LANES MILL ROAD HOWELL	NJ 07731-0000
	NORTON	L	17156 ROLLING CREEK DR HOUSTON	TX 77090-0000
	NUTER	ALBINA	A APT 13 905 S 4TH ST HORSESHOE BEND	AR 72512-3742
	OCONNOR	PATRICIA	1805 CRESTMORE PL FT COLLINS	CO 80521-0000
	ODONNELL	MARTIN	P 650 E E HEBRON	CT 06248-0000
	OKLAHOMA SECURITIES COMMISSION		JOURNAL RECORDS BUILDING SUITE 400 OKLAHOMA CITY	OK 73102-0000
	OKOLO	ANTHONY	O PO BOX 247	

## DEPARTMENT OF FINANCIAL INSTITUTIONS

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ON THE BORDER	MORAL	AL	35762-0000
ORTIZ	EDMUND	J HHB 5/52 NO ADA FT STEWART	GA 31314-0000
OSHEA	CAREN	140 PARKER HILL RD KILLINGWORTH	CT 06417-0000
OSHEA	LAWRENCE	D 140 PARKER HILL RD KILLINGWORTH	CT 06417-0000
OTTUMWA REGIONAL HEALTH C		10001 E PENNSYLVANIA AVENUE OTTUMWA	IA 52501-0000
OWEN	ANNA	L 200 DEVON BOULDER	CO 80302-0000
OWEN	DEANNE	200 DEVON BOULDER	CO 80302-0000
OWENS	BARBARA	3385 SHARP AVE CLEVELAND	TN 37311-0000
OWENS	JOHN	200 DEVON BOULDER	CO 80302-0000
PAPAVASILEIOU	EFSTATHIA	32 LBOF VOULIAGMENIS ARQIROUPOLIS GREECE	FA 00000-0000
PAPAVASILEIOU	KATERINA	32 LBOF VOULIAGMENIS ARQIROUPOLIS GREECE	FA 00000-0000
PAPE	ELAINE	C 6847 TOWN BLUFF DR DALLAS	TX 75248-0000
PARK	BRIAN	410 N WALNUT HOUSTON	TX 76366-0000
PARSONT	DANIEL	100 N 1ST AVE LIVINGSTON	NJ 07039-0000
PATTERSON	MICHAEL	C RT 1 BOX 405 OAKLAND	TN 38060-0000
PATTERSON	RAPHAEL	A HH CO 1/58 INF	

## DEPARTMENT OF FINANCIAL INSTITUTIONS

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PAVLUS	CRAIG	11 377 GLENN BROOK ROAD GLENN BROOK	CT 06039-0000
PAXSON	RICHARD	E MIDLAND	TX 79702-0000
PC TOWERS LP		300 PEACHTREE SOUTH TOWER ATLANTA	GA 30303-0000
PEARLE VISION STORE 588		PO BOX 226139 DALLAS	TX 75222-0000
PEARSON	FREDERICK	L HHC 2ND ENGR BN FT STEWART	GA 31314-0000
PERKEY	GARY	L B CO 2/5TH FL FT RILEY	KS 66442-0000
PETERSEN	JOHN	I 620 LAFAYETTE ST BOX 178 WATERLOO	IA 50704-0000
PETRUSKA	GREGORY	17 E BLAINE ST MCADOO	PA 18237-1928
PFITZER	R	C BOX 6227 516 5TH AVENUE SW CLINTON	IA 52732-0000
PHUCAS	VASCO	C 2201 FOUNTAIN VIEW DR NO 14 HOUSTON	TX 77057-3605
PILOT	MARY	PO BOX 6655 DUBAI UNITED ARAB EMI	FA 00000-0000
PINNELL	FLORA	J 4271 32ND PL NE SALEM	OR 97303-1235
PLAYLAND INC		1704 DOUGLAS STREET OMAHA	NE 68102-0000
PLAZA	JANET	M 115 BAYBERRY DR SOMERSET	NJ 08873-4213
PODBREGAR	MICHAEL	C 3543 WILEX SW WYOMING	MI 49509-0000
PODBREGAR	ROBYN	3543 WILEX SW	

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POWERSVILLE	PAUL	A 3232 N 21ST ST PHOENIX	MI 49509-0000	WYOMING	
POWERSVILLE	PAUL DAVID	3232 N 21ST ST PHOENIX	AZ 85016-0000		
POST	RHONDA	18 DORAY COURT BALTIMORE	AZ 85016-0000		
POWE	JOHNNIE	L 512 HARRIET AVE PRICHARD	MD 21207-0000		
POWERS	RAYMOND	M WARD 7 EAST NAVAL HOSPITAL BETHESDA	AL 36610-0000		
PRADO	JUAN	A 2615 W GLENDALE PHOENIX	MD 20814-0000		
PRATT	ROBERT	P 1500 BONHAM ST COMMERCE	AZ 00000-0000		
PREDMORE	MARLENE	F R R 9 EDWINA B MURPHY MARYVILLE	TX 75428-0000		
PRENTISS	CATHERINE	46 ROLLING HILL DR CHATHAM	TN 37801-0000		
PRESBYTERIAN HOSP OF WINNSBORO		719 W COKE RD BOX 106 WINNSBORO	NJ 07928-0000		
PRINCIPAL MTL LIFE INS		711 HIGH STREET DES MOINES	TX 75494-5494		
PRINCIPAL MUTUAL INSURANCE CO		711 HIGH STREET DES MOINES	IA 50307-0000		
PROSCH	CHARLES	4210 41ST ST DES MOINES	IA 50309-0000		
PRUSE	EUGENE	A 15136 SHEPHERD TERRACE CHANNELVIEW	IA 50310-0000		
PULLEN	JAMES	E BOX 47 AA 1 RT 2 CROMFIELD	TX 00000-0000		
PULLEN	JANICE		NJ 08514-0000		

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PYEATT	CHARLES	W 750 W LAS LOMITAS TUSCON	QUITO ECUADOR	FA 00000-0000
PYEATT	ONEIDA	S 750 W LAS LOMITAS TUSCON		AZ 85704-0000
QUARK INC		SUITE 100 300 S JACKSON ST DENVER		AZ 85704-0000
QUARLES	ANNA	R 2316 N LAMBERT ST PHILADELPHIA		CO 80209-0000
QUENZER	JAMIE	T 18610 BARBUDA LANE NASSAU BAY		PA 19132-0000
QUENZER	LACIE	M 18610 BARBUDA LANE NASSAU BAY		TX 77058-0000
QUENZER	RANDI	G 18610 BARBUDA LANE NASSAU BAY		TX 77058-0000
QUIGLEY	LAWRENCE	M 370 CIRCLE RD UNIT 11 MANCHESTER		TX 77058-0000
QUIROZ	THOMAS	HHB 1/21 FA FT HOOD		NH 03103-0000
RAAD	ROLLAND	R 14 NORWOOD HOUSE RD DOWNTOWN		TX 76544-0000
RABBE	AASMUND	BJERKELUNDSVEI 82 BEKKESTUA OSLO NOR		PA 19335-0000
RABINOVITZ	AMNON	4645 JA PUTTE HAZELARLAN 15 NETHERLANDS		FA 00000-0000
RADZICHOWSKI	JUAN	ENCARNACION PARAGUAY		FA 00000-0000
RAINES	STEPHEN	102 E AVE A 2 COPERAS COVE		TX 76522-0000
RAMBOW	ARTHUR	W 3311 E COCHISE RD PHOENIX		AZ 85028-0000
RAMOS	NELSON	CALL GERANIO D12 JARDINES TAYAUQUES		



## DEPARTMENT OF FINANCIAL INSTITUTIONS

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RAMOS	OSCAR	A CO 4/37 ARMOR FT RILEY	KS	66442-0000
RAPID CREEK HEALTH ACADEMY		2116 FRIENDSHIP IOWA CITY	IA	52240-0000
RAPIFAX CORP		6 KINGSBRIDGE RD FAIRFIELD	NJ	07006-0000
RAY	LOUIS	707 S TENNESSEE MCKINNEY	TX	75069-0000
REAVES	LEAH	F 2724 CATEHOUSE DR BALTIMORE	MD	21207-0000
REED	CHARLES	HHC 2ND BDE 1 CD FT HOOD	TX	76544-0000
REED	LARRICK	B BTRY 2/37TH FA FORT SILL	OK	73503-0000
REEVE	BARBRO	G 6021 E MOCKINGBIRD LN PARADISE VALLEY	AZ	85253-2298
REEVES	BRANDON	S 12624 PEPPERTREE PL OKLAHOMA CITY	OK	73132-0000
REITER	BRUCE	A RT 9 JETTA LANE CANTON	GA	30114-0000
REKLAITIS	BETTY	FED REPUBLIC OF GERMANY GERMANY	FA	00000-0000
REMOUR	LUCILLE	1201 CHATEAU KNOLL BETTENDORF	IA	52722-0000
REVILLAS	DIANE	3617 STABLES LA DALLAS	TX	75229-0000
REYNOLDS	GARY	948 GRANT AVE LOT 344 JUNCTION CITY	KS	66441-0000
REYNOLDS	REX	597TH MAINT FT HOOD	TX	76544-0000
RHF LTD IRVING		3007 LONGHORN BLVD		

## DEPARTMENT OF FINANCIAL INSTITUTIONS

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		AUSTIN	TX	78759-0000
RICCIARDONE	CHRISTOPHER	POSTFACH 269 8100 GARMISCH PARTEN GERMANY	FA	00000-0000
RICE	ANDREW	M LOT 2 LOADHOLTS TRAIL CRANBURG	SC	29039-0000
RICHARDSON	JUDY	2670 CROSSCREEK HEPHYIBAH	GA	30815-0000
RIDGEWAY	CAROL	708 ROCK HARBOR CT NASHVILLE	TN	37221-0000
RIDLEY	ANGELO	C CO 24TH SIGNAL FT STEWART	GA	31314-0000
RIEDEL	ANNE	1137 CONCORD DR HADDONFIELD	NJ	08033-3502
RIEDEL	ERNST	I 1137 CONCORD DR HADDONFIELD	NJ	08033-3502
RIO MOTOR HOTEL INC		6600 CAMP BOWIE BLVD FORT WORTH	TX	76116-0000
RISGIN	JAMES	W 4723 WOODCRAFT ROAD OKEMOS	MI	48864-0000
RITCHIE	CLAUDE	APT 11 5333 RICHMOND HOUSTON	TX	77056-0000
RITCHIE	LETA	T APT 11 5333 RICHMOND HOUSTON	TX	77056-0000
RITZ CARLTON BUCKHEAD		3434 PEACHTREE ROAD ATLANTA	GA	30326-0000
RIVERA	CARLOS	M 254 MT PROSPECT LN NEWARK	NJ	07104-0000
RIVERA	PEDRO	R 3013 CHISHOLM TRL KILLEEN	TX	76541-0000
RIVERA	RICARDO	HHC 2/70TH BDG 646 FT STEWART	GA	31314-0000
ROBBINS	CAROL	16 WESTVIEW RD		

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ROBBINS	MATTHEW	16 WESTVIEW RD NORTH HAVEN	CT	06473-0000
ROBERSON	PETER KRAMER	15330 ELLA BLVD APT 1718 HOUSTON	TX	77090-0000
ROBERSON	RICHARD	7610 CAROL RD COLUMBUS	GA	31905-0000
ROBERTS	DONALD	19203 TURTLE CREEK MAGNOLIA	TX	77335-0000
ROBERTS	RAYMOND	K SVC BATT 1/5TH FA FT RILEY	KS	66442-0000
ROBIN	SCOTTY	E CO 4TH MSB FT STEWART	GA	31314-0000
ROBINSON	BRAD	APT 2 2317 SHERRY CIRCLE MILLEDGEVILLE	GA	31061-0000
RODRIGUEZ	ALFREDO	38 B ARROWHEAD RD FT BENNING	GA	31905-0000
RODRIGUEZ	B	PO BOX 1332 EL MIRAGE	AZ	85335-0000
RODRIGUEZ	CARLOS	9012 MELTRICA AVE GRAND BLANC	MI	48439-0000
RODRIGUEZCOLON	DAVID	B BTRY 3/9TH FA FT SILL	OK	73503-0000
RODRIGUES	ENRIQUE	COMERICA BANK 61 W DETROIT	MI	48209-0000
ROGERS	MARY	P 101 6W 400 S HIGHLAND MEMPHIS	TN	38111-4437
ROLLINS	MARIE	L 14246 WESTMINSTER FOUNTAIN HILLS	AZ	85268-2706
ROPAC	JEROME	C FORT HOOD	TX	76544-0000
ROSE	ROLLAN	L 3002 WEN WOOD		

## DEPARTMENT OF FINANCIAL INSTITUTIONS

## NOTICE OF PUBLIC INFORMATION

ROSS	ANTHONY	ABILENE 306 W AVE G COPPERAS COVE	TX	79606-0000
ROSS	JOHN	A TRP 2/1 CAV FT HOOD	TX	76542-0000
ROSS	TIMOTHY	J 1810 RAYBURN DR SAN ANTONIO	TX	76544-0000
ROTHSTEIN	EDWARD	3447 ANDREW CT NO 202 LAUREL	MD	20707-0000
ROUTON	DONNA	PO BOX 12278 OKLAHOMA CITY	OK	73157-0000
RUFFIN	WILLIAM	1920 SHREWBURY RD METAIRIE	LA	70001-0000
RUFFIN	WILLIAM	217 BELL ST GREENVILLE	AL	36037-0000
RUSSELL	ALFRED	HHC 34TH SUPPORT 6 CAV FT HOOD	TX	76544-0000
RUST	KATHY	A 5809 N ELGIN ST TULSA	OK	74126-0000
S E EMPL BAN		3780 RIVER RUN DR BIRMINGHAM	AL	35243-0000
SABLE CORP		8416 STERLING ST IRVING	TX	75063-0000
SADEI	A	4 COTTON PLANO	TX	75075-0000
SALRIN	T	B 9207 LEASIDE DRIVE DALLAS	TX	75238-0000
SALTER	RAMONA	M 1218 E LINCOLN SCOTTSDALE	AZ	85253-0000
SALVATORE	ANTHONY	POSTFACH 269 8100 GARMISCH PARTEN GERMANY	FA	00000-0000
SAN ANTONIO GUN CLUB		PO BOX 6966		

## DEPARTMENT OF FINANCIAL INSTITUTIONS

## NOTICE OF PUBLIC INFORMATION

SANDERS	SANDRA	SAN ANTONIO	TX 78209-8209
	K PO BOX 241570		
	MEMPHIS		
SANDERS	THADDEUS	TN 38124-0000	
	6515 NO 69TH LANE		
	GLENDALE		
SANFORD	EULA	AZ 85303-0000	
	40 SHEPARED LANE		
	TIANECK		
SANGAVI	ASHA	NJ 07666-0000	
	N 120 E CROSSKEYS RD		
	BALTIMORE		
SANTUCCI	S	MD 21210-0000	
	PO BOX 547		
	CEDAR PARK		
SARVER	BUFORD	TX 78613-0000	
	846 PLYMOUTH 4		
	OCEANCITY		
SAVAGE	LAURA	NJ 08226-0000	
	RR 4 BOX 152		
	LAUREL		
SCHALLA	KENDRA	MS 39440-0000	
	J 9706 DALMALLY ST		
	SPRING		
SCHAUER	A	TX 77379-0000	
	13928 RESEARCH 115		
	AUSTIN		
SCHER	GEORGE	TX 78717-0000	
	F PO BOX 4491		
	PASADINA		
SCHERER	MARIA	TX 77502-0000	
	PO BOX 4491		
	PASADINA		
SCHMADEL	DAVID	TX 77502-0000	
	66TH ENG CO		
	FT HOOD		
SCHREIBER	ANDRES	TX 76544-0000	
	2ND BATTALLION DF 600		
	NORTH CHARLESTON		
SCHUBELIN	M	SC 29905-0000	
	S V. F. 67270		
	FRANCE		
SCHUBELIN	PETER	FA 00000-0000	
	S VIERTHALERS F6		
	FRANCE		
SCHULTZ	DARYL	FA 00000-0000	
	213 MADONNA ST		

## DEPARTMENT OF FINANCIAL INSTITUTIONS

## NOTICE OF PUBLIC INFORMATION

SCHUMACHER	DEAN	PAPAGOIL	AR 21-1134
	W 210 81TH AVE		
	MOOSE LAKE		
SCHWARTZ	DAVID	SC 29411-1148	
	15450		
	FT HOOD		
SCOTT	NATHANIEL	TX 76544-0000	
	114 S 11TH STREET		
	NEWARK		
SCRIBNER	DOROTHY	MI 49039-3000	
	A PO BOX 1111		
	HAGER SHARPE		
SEC HOMESTEAD ASSN			
SEEDORFF	MATHILDA	PO BOX 53207	
	NEW ORLEANS		
SEINFELD	RICHARD	W 4690 HERNE 1	
		ROSE REPAIR	
SELF	JAMES	1409 HAROLD AVENUE	
		HOUSTON	
SELL	GREGORY	TX 77006-3729	
	D 400 29TH AVE		
	COLUMBUS		
SELVAGGIO	KEVIN	INC	
SEMBOJA	JOSEPH	DE 30-1111	
	1 PO BOX 38196		
	DARESSALAAM TANZANIA		
SESSIONS	SAMMY	B 10 8TH ENG	
	FT HOOD		
SHANKLIN	MATTHEW	TX 6544-1111	
	110 PAUL ST		
	ENTERPRISE		
SHANKLIN		SC 29730-1111	
	2418 SHILAND DR		
	ROCK HILL		
SHARPE	WANDA	SC 29730-1111	
	J RT 3 BOX 1384		
	HAZELHURST		
SHEFFIELD	DARLENE	GA 31539-0000	
	NO 11 101 4801 S WADSWORTH BLVD		



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SHEWELL	JAMES	92 CHOLLA PLACE SIERRA VISTA	CO	80123-1381	SMITH	JOSEPH	1117 BYRON RD CHARLESTON	TX	77706-0000
SHICK	CHARLES	284 NEVADA ST HUNTSVILLE	AL	35810-0000	SMITH	LEE	A PO BOX 159 CASTOR	LA	71016-0159
SHOEMAKER	SCOTT	L 1315 ELKINS PL KILLEEN	TX	76541-0000	SMITH	LONNIE	E 1495 BRADLEY AVE CAMDEN	NJ	08103-0000
SHORT	BRIAN	K HHB 1/12TH FA LAWTON	OK	73503-0000	SMITH	MAHLONE	310 SCHOOL ST BARRACKVILLE	WV	26559-1000
SHULER	JEFF	A 3 FOREST RIDGE THOMASVILLE	GA	31772-0000	SMITH	MARJORIE	2 APT 118 3409 S RURAL RD TEMPE	AZ	85282-3000
SHUMAN	MARSHA	BOX 135 REXFORD	PA	16745-0000	SMITH	MICHAEL	J 106 NEWTON AVE C 2 OAKLYN	NJ	08107-0000
SIEMENS AG BEREICH DATENTECHNIK		D 8000 MUNCHEN 90 GERMANY	FA	00000-0000	SMITH	SANDRA	S PO BOX 159 CASTOR	LA	71016-0159
SIMON	AURORA	C 1544 E BRITAIN BENTON HARBOR	MI	49022-0000	SMITH	WILLIE	E III MCC CORPS ACADEMY FT HOOD	TX	76541-0000
SIMON	GAYLON	H 1544 E BRITAIN BENTON HARBOR	MI	49022-0000	SMITHSTRONG	COLETTE Y	NATHAN QUEENSLAND 04111 AUSTRALIA	FA	00000-0000
SIMON	RONALD	637 S DODGE IOWA CITY	IA	52240-0000	SOCIETY OF MANUFACTURING ENG		ONE SME DRIVE PO BOX 930 DEARBORN	MI	48121-0930
SIMS	RONALD	8701 NORTON 2B EL PASO	TX	79904-0000	SONIK	SIMON	5357 W BELL FORT HOUSTON	TX	77035-7035
SKINNER	SCOTT	1734 18TH STREET BETTENDORF	IA	52722-0000	SOOPER CREDIT UNION		5590 WEST EVAN AVE DENVER	CO	80227-1000
SLY	TOMMY	1200 SANDER/YOUNGER LN BOLTON	MS	39041-0000	SOUNETHONE	K	1825 S 19TH ST PHILADELPHIA	PA	19145-0000
SMITH	BARBARA	14330 LANSAN 2 DEARBORN	MI	48126-0000	SOUTHERN ENGINEERING & PUMP COMPANY		PO BOX 3398 HOUSTON	TX	77219-1000
SMITH	FRED	J 6874 E 56TH ST TULSA	OK	74135-0000	SOUTHERN LEGISLATIVE CONFERENCE		SUITE 830 3384 PEACHTREE RD NE ATLANTA	GA	30326-1000
SMITH	JAMES	G 460 BELVEDERE			SOUTHWEST SUPPLIERS INC		3011 GOVERNORS ROW		

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SOWELL	PAULA	DALLAS	TX	75247-0000
	C 3171 W CALLE CISNE TUCSON		AZ	85746-0000
SOWL	MICHAEL	A BOX 12 WALNUT RIDGE	AR	72476-0000
SPANN	BARBARA	A 3014 CLIMENT ST FLINT	MI	48504-0000
SPECIALIZED PRODUCTS COMPANY		2117 W WALNUT HILL AVE IRVING	TX	75038-0000
SPELLER	ABRAM	PO BOX 462 RANOCAS	NJ	08073-0000
SPENCER	DEAN	W 16317 LE MOYNE BLVD BILOXI	MS	39532-0000
SPENCER	ROMONA	E 16317 LE MOYNE BLVD BILOXI	MS	39532-0000
SPILLAR	ROBERT	J 6060 S JAMESTOWN PL TULSA	OK	74136-0000
SPORTS GIANT		PO BOX 400020 SAN ANTONIO	TX	78229-0000
SPRUILL	VIOLET	PO BOX 1702 LA PLATA	MD	20695-0000
STATE HEALTH AND POLICY REVIEW		PO BOX 13464 DENVER	CO	80201-0000
STEINBRECHER	JEROME	A 7000 OLD BEE CAVE RD OAK HILL	TX	78735-0000
STEINHAUER	BENNETT	14133 ASTRODOME DRIVE SILVER SPRINGS	MD	20906-0000
STELLER	LARRY	65 BROWNE GRANDE	TX	78521-0000
STEVENS	R	286 REDFERN VILL ST SIMMONS ISLAND	GA	31522-0000
STEVENS	ROBERT	L 14333 MEMORIAL DR		

## DEPARTMENT OF FINANCIAL INSTITUTIONS

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STEVENSON	HAROLD	HOUSTON	TX	77079-0000
STEWART	ALAN	R 5132 DILLON DENVER	CO	80239-0000
STEWART	SHERRY	L 5132 DILLON DENVER	CO	80239-0000
STITES	W	923 RESEDA DRIVE HOUSTON	TX	77062-0000
STOUT	LLOYD	5508 GREAT DIVIDE DR AUSTIN	TX	78736-1523
STRAIT	DOUGLAS	C 10TH CO 1ST BN FT BENNING	GA	31907-0000
SU	WEI	T KOUSHIUNG CITY TAIWAN	FA	00000-0000
SUAREI & SONS		PO BOX 11758 TUCSON	AZ	85734-0000
SUCHAN	DEBRA	A B 4 AVENUE HELMETTA	NJ	08828-0000
SUCHAN	RAYMOND	J B 4 AVENUE HELMETTA	NJ	08828-0000
SULKA	HELENE	1702 W TUCKLEY LN PHOENIX	AZ	85015-0000
SULLIVAN	KATHLEEN	4724 BARNETT METAIRIE	LA	70006-0000
SULLIVAN	MICHAEL	4724 BARNETT METAIRIE	LA	70006-0000
SULLIVAN	SEAN	M 640 COURT ST KEENE	NH	03431-0000
SUMNER	JAMES	D RTE 8 BOX 533 HOT SPRINGS	AR	71913-0000
SUN BELT REG MED CTR/HTI		13111 I 10 EAST		

## DEPARTMENT OF FINANCIAL INSTITUTIONS

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SUNG	SU LIN	HOUSTON	TX	77015-7015
		16631 N 56TH ST 1057	AZ	85254-1242
		SCOTTSDALE		
SUPERIOR PONTIAC GMC		4219 NORTHINGTON	TX	78237-0000
		SAN ANTONIO		
SVOBODA	EMMA	1722 PIKES PEAK COURT N E	IA	52402-0000
		CEDAR RAPIDS		
SWANSON	JAMES	C CO 4/37TH ARMOR	KS	66442-0000
		FT RILEY		
SWEENEY	JOAN	M FULHAM 45 BURNWATHE RD	FA	00000-0000
		LONDON GREAT BRITAIN		
SWEENEY	THOMAS E	FULHAM 45 BURNWATHE RD	FA	00000-0000
		LONDON GREAT BRITAIN		
SWEFT	DERREK	USS JOHN HANCOCK	SC	29418-0000
		CHARLESTON		
SWIFT	FRANCES	G BOX 442	TX	78832-0000
		BRACKETTVILLE		
SWINDLE	LARRY	300 PINE AVE 7	AR	72472-0000
		TRUMANN		
SWISS VOLKSBANK BOUE POP SWISS E		PO BOX 631 BAHNHAFSTRASSE 53 8021	FA	00000-0000
TAHSON	DEBORA	DEPT OF ECONOMICS BOX 1365	FA	00000-0000
		YAOUNDE CAMEROON		
TAHSON	JOSEPH	DEPT OF ECONOMICS BOX 1365	FA	00000-0000
		YAOUNDE CAMEROON		
TALBOT	LUCILLE	RD 2 BOX 12413 NORTH GLEND RD	NJ	07005-0000
		BOONTON TOWNSHIP		
TALPOT	DANIEL	RD 2 BOX 12413 NORTH GLEND RD	NJ	07005-0000
		BOONTON TOWNSHIP		
TANNER	BRIAN	W PMRF BARKING SANDS	HI	96752-0000
		KEKAHA		
TATE	TIMOTHY	O HHC 5/32 ARM		

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TAYLOR	C	FT STEWART	GA	31314-0000
		H BOX 36	TX	79237-0000
		HEDLEY		
TAYLOR	ELOISE	2112 S FOURTH	IA	52601-0000
		BURLINGTON		
TAYLOR	HARRY	E 2112 S FOURTH	IA	52601-0000
		BURLINGTON		
TAYLOR	JAMES	D C CO 17TH ENGR 2AD	TX	76544-0000
		FT HOOD		
TAYLOR	JEAN	M 222 N CENTRAL AVE	AZ	85004-0000
		PHOENIX		
TAYLOR	VINCENT	G RT 6 BOX 344	TX	76706-0000
		WACO		
TAYLOR	TRESIA	510 RED SPRINGS	TX	75455-0000
		MT PLEASANT		
TEIVELIS	FABIO	ENTRO RIO DE JANEIRO RJ BRAZIL	FA	00000-0000
TENNESSEE DEPT OF REVENUE			TN	00000-0000
TEXAS COMMERCE BANK DALLAS			TX	00000-0000
THE EQUITABLE LIFE ASSURANCE		6750 LBJ FREEWAY	TX	75380-0000
		DALLAS		
THEUS	MABEL	P 54 LAKE SHORE DR	CT	06098-0000
		WINSTEAD		
THIEBEAU	ROBERT	1ST PSC	KS	66442-0000
		FT FILEY		
THOMAS	C	PO BOX 143	SC	29003-0000
		BAMBERG		
THOMAS	ELDORADO	A CO 27 SUPPORT BTN 1CD	TX	76544-0000
		FT HOOD		
THOMAS	MARTIN	RT 4 BOX 182		



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THOMAS	STEVEN	D 2300 BLUEWATER DR 6 ALBANY	GA 31705-0000	MS 39564-9564
THOMAS	TROY	LEA USAG FT HOOD	TX 76544-0000	
THOMPSON	BARBARA	D RTE 4 BOX 1152 OLD HICKORY BLVD NASHVILLE	TN 37211-0000	
THOMPSON	ELIZABETH	C 826 CLOVER ST LAKE GENEVA WI 53147 -1	WI 01200-0000	
THOMPSON	JAMES	M RTE 4 BOX 1152 OLD HICKORY BLVD NASHVILLE	TN 37211-0000	
THOMPSON	JOSEPH	62ND S S BN FT HOOD	TX 76544-0000	
THOMPSON	LEE	E 1335 NORTH ELM STREET OHUWA	IA 52501-0000	
THOMPSON	STEVEN	250 TENNESSEE JACKSON	MS 39056-0000	
THOMSON	THOMAS	107 MOUNTAIN VIEW DR CACHE	OK 73527-0000	
THORNTON	KENNETH	F 8448 KILLY NEWPORT	MI 48166-0000	
THORNTON	M	1823 WOOD BEND DRIVE ATLANTA	GA 30300-0000	
TIDEWOOD APTS		10768 TROPICANA CIRCLE SUN CITY	AZ 85351-0000	
TIERNEY	E	R 235 E 9TH AVENUE ANCHORAGE	AK 99501-0000	
TILLMAN	JAMES	A 308B W 52 STREET DAVENPORT	IA 52806-0000	
TIME N TRAVEL MARKETING INC		1112 W BEN WHITE BLVD STE 320 AUSTIN	TX 78704-0000	

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TOMAGRADEVIDAL	JOSEFA	CENTRO DE INVESTIGACIONES BIOMEDICA MARACAIBO VENEZUELA	FA 00000-0000
TREVINO	JUAN	12571 ST MICHAEL HOUSTON	TX 00000-0000
TREWHELLA	EDMUND	A 338 BLOOMFIELD AVENUE MONTCLAIR	NJ 07042-3602
TRIGG	JANICE	M 1517 WESTCHESTER DRIVE OKLAHOMA CITY	OK 73120-0000
TRUAX	CLAYTON	C CO 4TH MSBN FT STEWART	GA 31314-0000
TSENG	HUANG	M 1409 PHEASANT HOLLOW DR PLAINSBORO	NJ 08536-0000
TSENG	YU	J 1409 PHEASANT HOLLOW DR PLAINSBORO	NJ 08536-0000
TSUNASHIMA	H	71524 YANAKA JAPAN	FA 00000-0000
TSUNASHIMA	HIDEMI	TAITOKU TOKYO JAPAN	FA 00000-0000
TUGADE	JERRY	R PO BOX 3975 MANILA PHILIPPINES	FA 00000-0000
TUGADE	RUBY	E PO BOX 3975 MANILA PHILIPPINES	FA 00000-0000
TULLIO	LOUIS	A BOX 272J RD 1 LONGHORN	PA 19047-0000
TUTHILL	MARY	A 219 BEACON BLVD SEA GIRT	NJ 08750-0000
TUTTLE	NORMAN	C BTRY 2/37TH FA FT SILL	OK 73503-0000
TYNDALL	CHRIS	A 128 LEWIS DR LAUREL	DE 19956-0000
UNDERWOOD	WILLIAM	181 CHEN CO 2 BN FT HOOD	TX 76544-0000

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UNION WADDELL	MIDLAND	TX	79702-0000		VITALLY	ADA MARIE	6111 AVERILL WAY DALLAS	TX	75225-0000
UNISYS CORPORATION	PO BOX 10394 DES MOINES	IA	50306-0000		VLHAQ	ATA	PO BOX 237 JONESVILLE	MI	49250-0000
UNITED COIN METEP	19068 TEN MILE RD SOUTHFIELD	MI	48075-0000		VOLLMER	DONALD	E 54 LAKE SHORE DR WINSTEAD	CT	06098-0000
UNITED ROYALTY DEVELOPMENT COMPANY	MIDLAND	TX	79702-0000		VOLUNTARY HOSPITALS OF AMERICA INC		PO BOX 160909 IRVING	TX	75016-0000
UNITED STATES DEPARTMENT OF ENERGY	PO BOX 6457 PHOENIX	AZ	85005-0000		WAILERS	ERIC	E HHB DIVARTRY FT STEWART	GA	31314-0000
USTI FOUNDERS SQU	900 JACKSON ST STE B2 DALLAS	TX	75202-0000		WALDON	RONALD	D 4101 E GORDAN SIOUX CITY	IA	51106-0000
UZZLE	C HOLLY TRAIL DRIVE HUSTON	TX	77058-0000		WALKER	MARK	E 664 TH ORF CO 13TH SUPCOM FT HOOD	TX	76544-0000
VANDENBREEN	8 CLIFF STREET MONTPELLIER	VT	05602-0000		WALLEN	CARL	W HQ BTRY 1/65TH ADA FT BLISS	TX	79916-0000
VANHOUTAN	E 7111 APT DS SANTE OKLAHOMA CITY	OK	73139-0000		WALLER	ANTHONY	C CO 3 BN 67TH ARMOR BI FORT HOOD	TX	76542-0000
VANTHILWALA	A 2807 GRANTS LAKE BLVD SUGAR LAND	TX	77479-0000		WALLS	K	A 1754 EASTRIDGE DRIVE ANCHORAGE	AK	99501-0000
VANVESSEN	A RD 2 BOC 1111 FELTON	DE	19941-0000		WALSH	DAVID	J 119 WILLOWDALE 21 FREDERICK	MD	21702-0000
VANVESSEN	J RD 2 BOC 1111 FELTON	DE	19941-0000		WALSH	LYNN	119 WILLOWDALE 21 FREDERICK	MD	21702-0000
VANWEST	2512 N TEJON COLORADO SPRINGS	CO	80907-0000		WALTER	LELAND	USS LEWIS CLARK CHARLESTON	SC	29408-0000
VIDAL	C CENTRO DE INVESTIGACIONES BIOMEDICA MARACAIBO VENEZUELA	FA	00000-0000		WARD	ALVINA	PO BOX 1411 HOUSTON	TX	77251-1411
VILLARIN	L 17 E BLAINE ST MCADOO	PA	18237-1928		WARD	JOHN	PO BOX 1411 HOUSTON	TX	77251-1411
VINT	A 150 FIRST AVENUE PORT READING	NJ	07064-0000		WASHBURN	JEFFREY	C 150 FIRST AVENUE PORT READING	NJ	07064-0000

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WASZAK	SABINAD	708 ROCK HARBOR CT NASHVILLE	TN	37221-0000	WESTCHESTER CENTER ASSOCIATES	9801 WESTHEIMER RD SUITE 1100 HOUSTON	TX	77042-0000
WATSON	JAMES	E RT 6 BX 89 YAZOO CITY	MS	39194-0000	J	T 6351 DAUPHIN ISL MOBILE	AL	36605-0000
WATSON	MARK	HHC 3/19 INF BN FT STEWART	GA	31314-0000	BARBARA	T RT 1 BOX 120 ARBOR CANTON	GA	30114-0000
WATSON	REBECCA	534 TALL TREES LN NASHVILLE	TN	37209-0000	BARRY	A CO 54TH SIG BN FT HOOD	TX	76544-0000
WEBB	CAROL	A 1701 INDIAN RD LAPEER	MI	48446-0000	LINDA	L 6714 SPRINGBROOK SAN ANTONIO	TX	78249-0000
WEBB	DAVID	E 1952 N PENFIELD ST PHILADELPHIA	PA	19138-0000	ROBERT	C 3067 S ROBIN WAY DENVER	CO	80222-0000
WEBB	EDWARD	E B CI 1/29 197 INF BDE FT BENNING	GA	31905-0000	LONNEL	H BOX 674 GOODLAND	KS	67735-0000
WEBBER	CAROL	L 7136 VILLAGE DR PRAIRIE VILLAGE	KS	66208-2856	MARLENE	BOX 674 GOODLAND	KS	67735-0000
WEBSTER	STEVEN	B 100 MARVLAND AVE HEBRON	MD	21830-0000	JUDY	P 330 CANDLEWOOD PARK NASHUA	NH	03062-4445
WEIDEMAN	GERRIT	3912 LOOMIS MUSKEGON	MI	49441-0000	RICHARD	J 330 CANDLEWOOD PARK NASHUA	NH	03062-4445
WELLS	GREGORY	B CO 3RD ENG BN FT STEWART	GA	31314-0000	BRYAN	P NO 157 11002 HAMMERLY ROAD HOUSTON	TX	77043-0000
WELTY	REBECCA	3440 TIMBERGLEN RD 244 DALLAS	TX	75252-0000	LISA	L NO 157 11002 HAMMERLY ROAD HOUSTON	TX	77043-0000
WEST AMERICA MORTGAGE		PO BOX 3368 ENGLEWOOD	CO	80155-0000	W	L 7368 SKYLINE EAGLE RIDGE	AK	99577-0000
WESTBROOK	CHARLES	BOX 87 TEXAS ST SULPHUR SPRINGS	TX	75482-0000	GLORIA	L 2446 HARRIET AVE BALTIMORE	MD	21230-0000
WESTBROOK	E ANNE	BOX 87 TEXAS ST SULPHUR SPRINGS	TX	75482-0000	ROBERT	L 2446 HARRIET AVE BALTIMORE	MD	21230-0000
WESTBROOK	RICHARD	A 2510 LAPE CAPRI DRIVE LITHONIA	GA	30058-0000	JOSEPH	A UNIT 1 301 VILLAGE NEW S W CALGARY 73H21 CANADA	FA	00000-0000

## DEPARTMENT OF FINANCIAL INSTITUTIONS

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## DEPARTMENT OF FINANCIAL INSTITUTIONS

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NAME	ADDRESS	STATE	ZIP	DATE	TIME	LOCATION	REMARKS
WILL	G	OR	97071-0000	2015	9:00 AM	WIMBERLY	JAMES M 114 CIRCLE DRIVE HUBBARD TX 76648-0000
WILLIAMS	DION	KS	66442-0000	2015	9:00 AM	WINGFIELD	SARAH F 1330 A OCONEE ST MILLEDGEVILLE GA 31061-2544
WILLIAMS	DOROTHY	GA	30228-0000	2015	9:00 AM	WISE	CHESTER C CO 4TH MSB FT STEWART GA 31314-0000
WILLIAMS	GLEN	TX	79936-0000	2015	9:00 AM	WISE	JIMMY 5023 S VICTOR ST TULSA OK 74105-0000
WILLIAMS	HARRY	TX	77631-0000	2015	9:00 AM	WITMER	MARK D CO 3RD 19TH INF FT STEWART GA 31314-0000
WILLIAMS	HENRY	GA	30901-1642	2015	9:00 AM	WITTMAN	LYNNE F DUBUQUE IA 00000-0000
WILLIAMS	M	AL	35957-0000	2015	9:00 AM	WLADYKA	WANDA 2109 NW 70TH AVE ANKENY IA 50021-0000
WILLIAMS	MARI	TX	79906-0000	2015	9:00 AM	WOLTERS	ED H 8569 KINGS CROSS CV CORDOVA TN 38018-5193
WILLIAMS	MARK	OK	73089-0000	2015	9:00 AM	WOOD	W D 14246 WESTMINSTER FOUNTAIN HILLS AZ 85268-2706
WILLIAMS	ROSETTA	WV	25801-0000	2015	9:00 AM	WOODFIN	HOWEL W 225 W WACO DR WACO TX 76707-0000
WILLIAMS	THOMAS	GA	30228-0000	2015	9:00 AM	WOOLF	RAYMOND B BOX 638 AMARILLO TX 79105-0000
WILLIAMSON	W	AZ	85251-0000	2015	9:00 AM	WORRALL	LORRAINE M 274 N RIDGE ROAD BROOKLYN MI 49230-9047
WILSON	JAMES	IA	50595-0000	2015	9:00 AM	WYDRA	CONNIE 2010 VENTURA COLORADO SPRINGS CO 80910-0000
WILSON	RICHARD	GA	31905-0000	2015	9:00 AM	WYDRA	JOHN 2010 VENTURA COLORADO SPRINGS CO 80910-0000
WILSON	RICHARD	AZ	85715-0000	2015	9:00 AM	WYNN	GWENDOLYN R BOX 1748 DOMESTIC AUSTIN TX 78767-8767
WILSON	RUBY	GA	30125-0000	2015	9:00 AM	XERICOS	AZ 00000-0000

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YAMADA	FOHHEI	2 26 30 KAMIOCHIAI SHINJUKU KU TOKYO JAPAN	FA 00000-0000
YAMADA	TAMAKO	2 26 30 KAMIOCHIAI SHINJUKU KU TOKYO JAPAN	FA 00000-0000
YASUDA	TOSHIYUKI	NAKA KU YOMOHAMA SHI KANAGAWA 231 JAPAN	FA 00000-0000
YORK	SARA	L 429 DRIVE ST MOBILE	AL 36617-0000
YOUNG	DIANA	M PO BOX 4092 DAVENPORT	IA 52808-0000
YOUNG	FLORENCE	M APT 101 6060 OAK BAY HOUSTON	TX 77091-0000
YOUNG	KENNETH	R 3632 S E MILWAUKEE AVE PORTLAND	OR 97202-0000
YOUNG	TROY	4100 W WARREN DETROIT	MI 48235-0000
YOUNGS	ELEANOR	F 7714 CLAY RIDGE DR SAN ANTONIO	TX 78239-0000
ZALOUM	GASTON MARY	4000 DEMATSONNEUM WSTM T QUEBEC CANADA	FA 00000-0000
ZAUCHA	ROSE	10768 TROPICANA CIRCLE SUN CITY	AZ 85351-0000
ZEITLIN	MICHAEL	5607 WEST LOUISIANA AVE LAKEWOOD	CO 80226-0000
ZEPEDA	JOSE	CD GUZMAN 170 LEONAVICARION 22944 JAL MEXICO	FA 00000-0000
ZEPEDA	MIGUEL	CD GUZMAN 170 LEONAVICARION 22944 JAL MEXICO	FA 00000-0000
ZUCHELLI	DONALD	R PO BOX ANNAPOLIS	MD 21404-0000

## DEPARTMENT OF REVENUE

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1. Statute requiring agency to publish information concerning Private Letter Rulings in the Illinois Register:

Name of Act: Illinois Department of Revenue Sunshine Act  
Citation: Ill. Rev. Stat. 1991, ch. 127, par. 2001 (20 ILCS 2515/1)

2. Summary of information:

Index of Department of Revenue sales tax Private Letter Rulings and General Information Letters issued for the Third Quarter of 1994. Private letter rulings are issued by the Department in response to specific taxpayer inquiries concerning the application of a tax statute or rule to a particular fact situation. Private letter rulings are binding on the Department only as to the taxpayer who is the subject of the request for ruling. (See 86 Ill. Adm. Code 1200.110) General information letters are issued by the Department in response to written inquiries from taxpayers, taxpayer representatives, business, trade, industrial associations or similar groups. General information letters contain general discussions of tax principles or applications. General information letters are designed to provide general background information on topics of interest to taxpayers. General information letters do not constitute statements of agency policy that apply, interpret, or prescribe tax laws administered by the Department. General information letters may not be relied upon by taxpayers in taking positions with reference to tax issues and create no rights for taxpayers under the Taxpayers' Bill of Rights Act. (See 86 Ill. Adm. Code 1200.120)

The letters are listed numerically, are identified as either a General Information Letter or a Private Letter Ruling and are summarized with a brief synopsis under the following subjects:

Agents	Manufacturing Machinery & Equipment
Agricultural Producers and Products	Medical Appliances
Assessments	Miscellaneous
Automobile Penting Tax	Motor Fuel Tax
Bingo	Motor Vehicles
Books and Records	Newsprint & Ink
Bulk Sales	Nexus
C.O.A.D.	Nonprofit Insitutions
Certificate of Registration	Occasional Sale

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Charitable Games  
 Cigarette Tax  
 Claims for Credit  
 Coal Fueled Devices  
 Coal Mining Equipment  
 Coins & Precious Metals  
 Computer Software  
 Construction Contractors  
 Cooperative Associations  
 Delivery Charges  
 Distillation Machinery  
 Drug Tax Stamps  
 Drugs  
 Enterprise Zones  
 Exempt Organizations  
 Farm Machinery & Equipment  
 Federal Excise Tax  
 Financial Institutions  
 Food  
 Food, Drugs & Medical  
 Appliances  
 Governmental Bodies  
 Graphic Arts  
 Gross Receipts  
 Hotel Operators' Tax  
 Interest  
 Interstate Commerce  
 Itinerant Vendors  
 Invested Capital Tax  
 Leasing  
 Liquor Tax  
 Local Taxes  
 Mandatory Service Charges  
 Manufacturers  
 Oil Field Equipment  
 Penalties  
 Pollution Control Facilities  
 Prepaid Sales Tax  
 Products of Photoprocessing  
 Property Tax  
 Public Utility Taxes  
 Real Estate Transfer Tax  
 Repairs  
 Replacement Vehicle Tax  
 Returns  
 Rolling Stock Exemption  
 Sale at Retail  
 Sale for Resale  
 Sale of Service  
 Signature  
 Special Order  
 Statute of Limitations  
 Tax Collection  
 Tax Increment Financing  
 Tax Rate  
 Telecommunications Excise Tax  
 Temporary Storage  
 Tire User Fee  
 Trade-Ins  
 Use Tax  
 Vehicle Use Tax  
 Vendors

Copies of the ruling letters themselves are available for inspection and may be purchased for a minimum of \$1.00 per opinion plus 25¢ per page for each page over one.

The annual index of Sales and Excise Tax letter rulings (all four quarters) is available for \$3.00.

3. Name and address of person to contact concerning this information:

Margaret Forth  
 Office of General Counsel  
 101 West Jefferson Street

## DEPARTMENT OF REVENUE

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Springfield, Illinois 62794  
 Telephone: (217) 782-6996



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## AGENTS

94-0343 08/11/1994 This letter describes the application of the ROTA to  
\$1.25 consignment sales made by schools as fundraisers. (This is a  
GIL.)

## AGRICULTURAL PRODUCERS AND PRODUCTS

94-0337 08/10/1994 To document the farm chemical exemption, a purchaser  
\$1.00 should provide the supplier with a certificate that includes the  
date, the supplier's name and address, the purchaser's name and  
address, and a statement that the item is being purchased for use  
in production agriculture. (This is a GIL.)

## AUTOMOBILE RENTING TAX

94-0275 07/14/1994 Cancellation charges for automobile rentals (if  
\$1.25 separately stated) are not for the use of tangible personal  
property and would not be subject to the Automobile Renting  
Occupation and Use Tax or Retailers' Occupation Tax. (This is a  
PLR.)

## BINGO

94-0269 07/14/1994 Raffles and other forms of gambling prohibited by law  
\$1.00 shall not be conducted on the premises where bingo is being  
conducted (except for certain games authorized under the Illinois  
Pull Tabs and Jar Games Act). (This is a GIL.)

94-0319 07/28/1994 If two groups are reciprocally organized and the  
\$1.25 "auxiliary" group meets the requirements of Section 2(2) of the  
Act and can thus participate in the management and operation of  
bingo games conducted by the other group, it is within the spirit  
of the Act to also permit the other group to participate in the  
management and operation of bingo games conducted by the  
"auxiliary" group. (This is a GIL.)

## BOOKS AND RECORDS

94-0362 08/29/1994 Section 7 of the Retailers' Occupation Tax was  
\$1.00 recently amended by Public Act 88-480 to state that "records"  
(for purposes of Section 7) means "all data maintained by the

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taxpayer, including data on paper, microfilm, microfiche or any  
type of machine-sensible data compilation. Sections 130.805 and  
130.810 (enclosed) explain what the minimum requirements for  
records currently are. (This is a GIL.)

## BULK SALES

94-0286 07/19/1994 When a taxpayer sells or transfers a major part of  
\$1.25 any one or more of his assets, the purchaser or transferee of the  
assets, must file a notice of sale/transfer of business assets on  
Form NUC-542A with the Department no later than 10 days after the  
sale or transfer. (This is a GIL.)

## CERTIFICATE OF REGISTRATION

94-0298 07/22/1994 Section 2a of the Retailers' Occupation Tax Act  
\$1.25 specifies that it is unlawful for any person to engage in the  
business of selling tangible personal property at retail in  
Illinois without a certificate of registration from the  
Department. This rule is true for sole proprietorships,  
corporations or any other persons that engage in retail selling.  
Violation of Section 2a is a Class 4 felony. (This is a GIL.)

94-0303 07/22/1994 It is unlawful to engage in the business of selling  
\$1.25 tangible personal property at retail in Illinois without a  
Certificate of Registration from the Department. (This is a GIL.)

## CHARITABLE GAMES

94-0262 07/12/1994 Section 432.130 (c)(3) states that a pull tab must  
\$1.25 contain the manufacturer's name or logo, the serial number  
assigned by the manufacturer and the supplier's name, as well as  
the number of winners, respective winning numbers or symbols,  
selling price of each ticket and prize amounts. The latter four  
requirements may be printed on a flare, rather than on a pull  
tab. However, for break opens, Section 432.130(c)(4) states that  
"in addition to the requirements of subsection (c)(3)," the  
name of the game, manufacturer's form number, the selling price  
and the prize amount must appear on the gaming ticket, rather  
than on a flare. (This is a GIL.)

94-0264 07/12/1994 The Department has no jurisdiction to regulate

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\$1.25 sweepstakes or lottery games. (This is a GIL.)

94-0304 07/25/1994 Public Act 87-1271 amended provisions of Section 3 of the Act to provide that local fraternal mutual benefit organizations chartered at least 40 years before applying for a license are eligible for a license.

## CLAIMS FOR CREDIT

94-0352 08/15/1994 This letter explains the method in which claims for credit are submitted. (This is a GIL.)

94-0364 08/31/1994 All claims for credit are subject to the statute of limitations. Since the limitations period on the filing of claims is statutory, the Department has no authority to waive the statute of limitations. The Department has no authority to agree to extend the time in which claims must be filed. (This is a GIL.)

## COMPUTER SOFTWARE

94-0278 07/14/1994 If a transaction for the licensing of computer software meets all of the criteria provided in part (a)(1) of Section 130.1935, neither the transfer of the software nor the subsequent software updates will be subject to Retailer's Occupation Tax. (This is a GIL.)

94-0283 07/15/1994 The operational coding of canned or pre-written software must undergo "real and substantial changes" before it is considered custom software.

94-0329 08/04/1994 A software license must meet all the criteria contained in Section 130.1935 (a)(1) (A-E) in order to be considered a nontaxable license of software. If a license fails to meet any of these criteria, it is fully taxable. (This is a GIL.)

94-0335 08/09/1994 The sale of canned computer software is a taxable retail sale. However, the sale of such custom computer software is not a taxable retail sale. (This is a GIL.)

94-0336 08/10/1994 Charges for monthly updates of canned software are considered to sales of software and are subject to Retailers' Occupation Tax. (This is a GIL.)

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Occupation Tax. However, charges for monthly updates of customized software are not subject to tax. (This is a GIL.)

94-0371 08/31/1994 This letter answers a questionnaire concerning computer software and maintenance agreements. (This is a GIL.)

94-0382 09/14/1994 Response to computer software survey. (This is a GIL.)

94-0387 09/15/1994 If a license of software does not contain a provision concerning the replacement of lost or damaged software, it may still qualify if the company's books and records reflect that it does provide copies of the software at minimal or no charge if the customer loses or damages the software. If a license of software is perpetual in nature, the license agreement need not contain the requirement that the software be returned or destroyed at the end of the license period to qualify for the license of software exemption. (This is a GIL.)

94-0388 09/15/1994 A sale of "canned" computer software is a taxable retail sale. If the computer software consists of custom computer programs, then the sale of such software is not a taxable retail sale. If a transaction for the licensing of computer software meets all of the criteria provided in part (a)(1) of Section 130.1935, neither the transfer of the software or the subsequent software updates will be subject to Retailers' Occupation Tax. (This is a GIL.)

94-0397 09/23/1994 A sale of "canned" computer software is a taxable retail sale. If the computer software consists of custom computer programs or qualifies as a license of computer software, then the sale of such software and any subsequent software update is not a taxable retail sale. (This is a GIL.)

94-0402 09/26/1994 If a computer software license is perpetual in nature, the license agreement need not contain the requirement that the software be returned or destroyed at the end of the license period to qualify for the exemption if all the other criteria listed in Section 130.1935 have been met. (This is a GIL.)

## CONSTRUCTION CONTRACTORS

94-0266 07/13/1994 A shelving company that sells and installs shelving which is not permanently affixed to real estate, makes a retail sale. (This is a GIL.)

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sale. The purchaser must either submit documentation that his purchase is for resale purposes (a valid Certificate of Resale) or pay tax to the shelving retailer. (This is a GIL.)

94-0345  
\$1.25

08/11/1994 When components of a security system are permanently affixed to real estate, this is considered to be a construction contractor situation where the construction contractor owes Use Tax on the cost price of the components incorporated into real estate. (This is a GIL.)

94-0411  
\$1.25

09/30/1994 When a construction contractor purchases tangible personal property that is to be permanently affixed to or incorporated into real property, the contractor does not incur Retailers' Occupation Tax liability when the property is transferred to the customer. (This is a GIL.)

## DELIVERY CHARGES

94-0390  
\$1.00

09/16/1994 Transportation and delivery charges are generally includable in gross receipts where these charges are an element of the cost of the product being sold. This is true despite the fact that the delivery charge may be stated separately on the bill to the customer. (This is a GIL.)

94-0398  
\$1.25

09/16/1994 Shipping charges may be excluded from gross receipts and not subject to Retailers' Occupation Tax where the seller and buyer agree upon the charges separately from the selling price of the merchandise. The best evidence that shipping charges were agreed to separately and apart from the selling price, is a separate and distinct contract for shipping. (This is a GIL.)

## DRUGS

94-0259  
\$1.00

07/12/1994 A contact lens cleaning solution which also makes claims on the label to act as a disinfectant constitutes a drug subject to the low rate of tax. (This is a GIL.)

## ENTERPRISE ZONES

94-0248  
\$1.00

07/01/1994 If a mobile home dealer located in a jurisdiction that created the enterprise zone sells a mobile home which he also sets up on blocks, anchors and skirts at a location in an

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enterprise zone, the sale is fully taxable. The sale is taxable because setting up, anchoring and skirting a mobile home are not activities that constitute permanent affixation to real estate.

94-0265  
\$1.00

07/13/1994 If a construction contractor incorporates qualifying building materials into real estate located in the enterprise zone, those materials will be exempt from tax only if that contractor purchases them from a retailer located in the jurisdiction that created the enterprise zone into which they will be incorporated. (This is a GIL.)

94-0280  
\$1.25

07/14/1994 Generally speaking, a generator, used as back-up during power outages, sold to a company located in an enterprise zone, does not constitute a building material which is exempt from tax. Appliances which qualify as building materials under this exemption must be incorporated into real estate by remodeling, rehabilitation or new construction, and must be permanently affixed to real estate. Permanent affixation, in the case of appliances, means that the item is bolted or otherwise permanently affixed to real estate, and is also hardwired into the electrical or other power supply system of the real estate. (This is a GIL.)

94-0299  
\$1.25

07/22/1994 Under the provisions of section 5k of the Retailers' Occupation Tax Act, localities have the authority to limit the application of the enterprise zone building materials exemption (e.g., by limiting the exemption to projects which require a building permit or approval from the enterprise zone administrator). Localities cannot, however, limit the amount of exemption from Retailers' Occupation Tax under the exemption (e.g., a municipality could not limit the amount of exemption under the ROT to that distributed each month by the department into the local government tax fund - 16% of the net revenue realized from the 6.25% rate on the selling price of general merchandise).

94-0313  
\$1.25

07/28/1994 In order for the enterprise zone building materials exemption to apply, a retailer of the qualifying materials must be located in the jurisdiction that created the enterprise zone into which the materials will be incorporated. (This is a GIL.)

94-0356  
\$1.25

08/22/1994 In order to claim the enterprise zone exemption for building materials, a contractor or other purchaser must purchase the materials from a retailer located in the jurisdiction which has established the enterprise zone into which the materials will



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be incorporated. (This is a GIL.)

94-0361 08/26/1994 This letter explains the requirements for the enterprise zone building materials exemption, as well as the expanded manufacturing machinery equipment/pollution control exemption for certified businesses.

## FARM MACHINERY &amp; EQUIPMENT

94-0243 07/01/1994 Farm machinery and equipment that is used primarily (over 50% of the time) in production agriculture or for use in State or Federal agricultural programs, may be purchased free from tax. ATV's do not qualify for the exemption afforded farm machinery and equipment. (This is a GIL.)

94-0305 07/26/1994 The breeding and raising of fish for subsequent sale constitutes a type of "production agriculture". (This is a GIL.)

94-0376 09/02/1994 No item qualifies for the Farm Machinery and Equipment Exemption in and of itself. In order for a transaction to qualify for the Farm Machinery and Equipment Exemption, a certification must be obtained containing the information set out at 86 Ill. Adm. Code 130.305(m), enclosed. Machinery and equipment which is used both in qualifying and non-qualifying activities must be used primarily in production agriculture as defined in the regulation before the exemption has application. (This is a GIL.)

94-0408 09/30/1994 Machinery or equipment used in conjunction with a waste disposal system can qualify for the Farm Machinery and Equipment exemption as long as it is essential to production agriculture. (This is a GIL.)

## FOOD

94-0273 07/14/1994 The manner in which food is taxed depends upon the nature of the establishment selling the food. As a general rule, if a retailer provides seating or facilities for on-premises consumption, that retailer incurs the high rate of tax on all food sales. If a retailer sells food for immediate consumption and grocery type bulk items, and also provides facilities for on-premises consumption, the low rate of tax can be charged on

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the grocery-type items only if the areas where food will be consumed on-premises are partitioned and served by a separate means of collection.

94-0284 07/15/1994 Grocery stores that sell primarily bulk food items are subject to the low rate of tax except for hot food items which are subject to the high rate of tax. (This is a GIL.)

94-0333 08/08/1994 This letter describes what tax hotels/motels incur in providing free food to their guests and what the appropriate tax rate is for food. (This is a GIL.)

94-0360 08/26/1994 This letter describes the application of the ROTA and the SOTA to transfers of food to attendees of training sessions at the taxpayer's training site. (This is a GIL.)

94-0368 08/31/1994 Section 130.310 does not require a certain size of seating area for the location to be considered as providing facilities for on premises consumption for purposes of determining whether the full rate of tax applies to retail sales of food items at that location. There is no de minimis amount of seating for application of this rule, even a counter without seating may be sufficient. (This is a GIL.)

## GRAPHIC ARTS

94-0263 07/12/1994 Printing plates can qualify for the Graphic Arts Machinery and Equipment Exemption when they are capable of sustained use as opposed to one-time use plates which do not qualify for the Graphic Arts Machinery and Equipment Exemption. (This is a GIL.)

94-0310 07/27/1994 Color laser copiers do not qualify for the Graphic Arts Machinery and Equipment Exemption and their sales are subject to Retailers' Occupation and Use Tax liabilities (This is a GIL.)

94-0342 08/10/1994 Persons engaged in graphic arts production incur either Retailers' Occupation Tax, Service Occupation Tax, or Use Tax liability depending upon the types of items produced and their cost price of the tangible personal property that is produced. (This is a GIL.)

94-0369 08/31/1994 Photographers, film makers, and other servicemen are

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\$1.25 subject to Retailers' Occupation Tax on the photoprocessing component of their total service charge when they sell products of photoprocessing. (This is a GIL.)

## GROSS RECEIPTS

94-0244 07/01/1994 Service costs may not be deducted from gross receipts for determining Retailers' Occupation Tax liability and are considered costs of doing business. (This is a GIL.)

94-0246 07/01/1994 The sale of cellular phones is subject to Retailers' Occupation Tax based upon the gross receipts. (This is a GIL.)

94-0250 07/01/1994 When a taxpayer files on the gross sales basis, it can take a deduction for bad debts. However, this deduction cannot be taken until the month that the bad debt is charged off the books for Federal income tax purposes. (This is a GIL.)

94-0268 07/13/1994 In the mail order context, shipping charges are deemed to be agreed upon separately from the selling price of the tangible personal property subject to tax, so long as the mail order form requires a separate charge for delivery and so long as the charges designated as transportation or delivery or shipping and handling are actually reflective of the costs of such shipping, transportation or delivery. To the extent that such charges exceed the costs of shipping, transportation or delivery, the charges are subject to tax. (This is a GIL.)

94-0279 07/14/1994 For purposes of calculating Retailers' Occupation Tax liability, payments on the purchase price of tangible personal property are included as part of the seller's gross receipts when they are received by the seller. (This is a GIL.)

94-0281 07/14/1994 When the seller and buyer agree upon an installation charge separately from the selling price of the tangible personal property sold, the charges for installation are not included in the gross receipts subject to tax. An invoice which separately states the installation charges and is initialed by the purchaser is sufficient to evidence a separate agreement between the buyer and seller. (This is a GIL.)

94-0285 07/18/1994 Per Section 130.410, a retailer's cost of doing business is not deductible from the gross receipts subject to tax. (This is a GIL.)

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94-0306 07/26/1994 If a retailer offers a purchaser a discount based upon prompt payment, and the purchaser pays within the required time period and thus avails himself of the discount, the discounted amount is not includable in the gross receipts subject to Retailers' Occupation Tax. (This is a GIL.)

94-0307 07/26/1994 When the legal incidence of a tax is upon a consumer, with a retailer being required to collect and remit that tax to the taxing authority, the tax is not considered to be part of the selling price subject to Retailers' Occupation Tax. (This is a GIL.)

94-0315 07/28/1994 When Federal taxes are imposed on the consumer level, or when a retailer is required by Federal law to collect taxes from purchasers and remit those taxes directly to the Federal government, they are not includable in the gross receipts subject to Retailers' Occupation Tax. The Federal tax imposed upon jet fuel is imposed at the manufacturer or producer level. Consequently, these taxes are includable in the gross receipts subject to Retailers' Occupation Tax. (This is a GIL.)

94-0328 08/03/1994 Retailers selling trailers that are required to be registered with an agency of this State must file an ST-556 with the Department and make payment of all taxes due within 20 days of the date on which delivery of the trailer is made. (This is a GIL.)

94-0409 09/26/1994 Costs of doing business, such as advertising, freight and costs of product development cannot be deducted from gross receipts when calculating Retailers' Occupation Tax liability. (This is a GIL.)

## HOTEL OPERATORS' TAX

94-0338 08/10/1994 A hospital that makes available empty rooms or spare beds to out-patients who are receiving treatment or recovering but are not admitted as patients is not liable for hotel tax on their receipts from such rental of rooms. (This is a GIL.)

94-0351 08/15/1994 The only exemptions available to a hotel operator are for rentals to permanent residents and to certain diplomatic personnel. Exemptions from the tax are explained at 86 Ill. Adm. Code 480.101(b).

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## INTERSTATE COMMERCE

94-0270 07/14/1994 Retailers' Occupation Tax does not apply to gross receipts from sales in interstate commerce in which the seller is obligated, under the terms of the seller's agreement with the purchaser, to make physical delivery of the goods from a point in this State to a point outside this State, not to be returned to a point within this State, provided that such delivery is actually made. (This is a GIL.)

94-0375 09/02/1994 Under either the Retailers' Occupation Tax or the Service Occupation Tax, where a retailer or serviceman is obligated to make physical delivery of tangible personal property to a point outside the state, not to be returned to a point inside the state, the transaction is exempt from Retailers' Occupation Tax or Service Occupation Tax under the interstate commerce exemption.

94-0394 09/19/1994 When an Illinois printer produces and ships special order printed materials to an out-of-State location, which it knows will be delivered back into Illinois to an Illinois mailing house of the customer's choice for further sorting and mailing, Service Occupation Tax is due on the entire sale. (This is a GIL.)

## LEASING

94-0242 07/01/1994 This letter describes the typical tax liabilities involved in a sale/leaseback transaction. (This is a GIL.)

94-0247 07/01/1994 Gross receipts received from lease payments made under a true lease (see 86 Ill. Adm. Code 130.2010) are not subject to Retailers' Occupation Tax. The only exception is an automobile lease for one year or less. (This is a GIL.)

94-0277 07/14/1994 Except for automobiles leased for a period of one year or less, Retailers' Occupation Tax is not incurred on the gross receipts from the rental of tangible personal property in Illinois. If a retailer charged customers Use Tax on the entire amount of a bill that included rental charges, those customers would be charged Use Tax on their rental payments. This would be considered a willful charge for Use Tax that is not legally

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incurred by a purchaser. (This is a GIL.)

94-0291 07/20/1994 This letter explains the difference in taxation between true leases and conditional sales. (This is a GIL.)

94-0316 07/28/1994 Rental receipts for equipment leased under a true lease are not subject to tax. Instead, the lessor of the equipment is considered to be the end user of that equipment, and incurs a Use Tax liability. (This is a GIL.)

94-0317 07/28/1994 In a true lease situation, the lessor owes use tax on his cost price of the property used since he is the end user. In a conditional sale, Retailers' Occupation Tax is calculated on each payment as it is received. (This is a GIL.)

94-0326 08/01/1994 Rental receipts for true leases are not subject to Retailers' Occupation Tax in Illinois. However, the lessor is considered to be the end user of the tangible personal property purchased for leasing purposes and owes Use Tax "up front" upon the cost price of the item. The lessee does not incur any tax liability on the lease payments. (This is a GIL.)

94-0357 08/22/1994 Lessors of tangible personal property under true leases are deemed to be the users of that property. They are required to pay Use Tax on the purchase price of the property when it is acquired. This is true even where the item will be leased to an exempt organization. (This is a GIL.)

94-0379 09/02/1994 The lessor of tangible personal property in Illinois is considered to be the end user of the property to be leased and incurs Use Tax on the lessor's cost price of the property. (This is a GIL.)

94-0405 09/26/1994 This letter discusses the treatment of maintenance agreements in the context of retail sales of automobiles, true leases and conditional sales. (This is a GIL.)

## LOCAL TAXES

94-0289 07/19/1994 Any local taxes incurred from the sale of a leased vehicle, when the purchase order is accepted in this State, are based on the location where the purchase order was accepted. If

the purchase order is accepted outside of this State, any local



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taxes incurred from the sale are determined by the purchaser's address (the address where the vehicle will be registered). (This is a GIL.)

94-0312 07/28/1994 If a sale of coal is made to an end user by a producer of coal, the seller will incur not only the Retailers' Occupation Tax, but may also incur, if applicable, the Home Rule Retailers Occupation Tax ("HRMROT"). The particular HRMROT applicable to such a transaction is determined by ascertaining the location at which the mineral or coal is extracted from the earth. "Extracted" means the location at which the coal is physically brought out of the earth. (This is a GIL.)

94-0318 07/28/1994 Local taxes are incurred when selling occurs within a jurisdiction imposing a local tax. The Department has determined that the most important element of selling occurs when a seller accepts the purchaser order. Consequently, selling is deemed to occur where the purchase order is accepted by the seller. It is the rate of tax imposed by a jurisdiction at that location which determines the local taxes. The location of the purchaser, or the point at which title passes to the buyer, do not control. (This is a GIL.)

94-0401 09/26/1994 The Metropolitan Pier and Exposition Authority Retailers' Occupation Tax applies to all persons engaged in the business of selling tangible personal property at retail ... at the rate of 1.0% of the gross receipts (i) from the sale of food, alcoholic beverages, and soft drinks sold for consumption on the premises where sold and (ii) from the sale of food, alcoholic beverages, and soft drinks sold for consumption off the premises where sold by a retailer whose principal source of gross receipts is from the sale of food, alcoholic beverages, and soft drinks prepared for immediate consumption. (This is a GIL.)

## MANUFACTURING MACHINERY &amp; EQUIPMENT

94-0302 07/22/1994 Hollow steel tubing which supports machines that are strategically placed at varying heights so that gravity can move the materials through a production process, do not qualify for the manufacturing machinery and equipment exemption. The tubing does not physically act on the material in any way, nor does it transport the materials between production stages. It simply provides a foundation for carefully placed machinery so that gravity can then work with the machines to move materials. (This is a GIL.)

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94-0308 07/26/1994 The manufacturing machinery and equipment exemption specifically excludes electricity and natural gas consumed in a manufacturing process. (This is a GIL.)

94-0330 08/04/1994 Equipment used by a manufacturer primarily to dismantle used pallets, which are then reformed into new pallets, can constitute equipment which is eligible for the Manufacturing, Machinery, and Equipment Exemption. (This is a GIL.)

94-0334 08/09/1994 This letter discusses the taxation of machinery or equipment purchased for lease that qualifies for the Manufacturing Machinery and Equipment Exemption. (This is a GIL.)

94-0340 08/10/1994 Answers a series of questions concerning the application of the manufacturing machinery and equipment exemption. (This is a GIL.)

94-0393 09/19/1994 This letter describes the manufacturer's purchase credit program as modified by Public Act 88-0547, effective June 30, 1994. (This is a GIL.)

94-0407 09/30/1994 Scales, conveyors, containers and bobcat vehicles used in either pre-or post-production activities do not qualify for the manufacturing machinery and equipment exemption. Sorting platforms do not qualify for the manufacturing and machinery exemption because they are used to house or support machinery or equipment. Magnetic separators can qualify for the manufacturing machinery and equipment exemption if they are used to sort and handle materials in the production process. (This is a GIL.)

## MEDICAL APPLIANCES

94-0254 07/05/1994 Tangible personal property that qualifies as a medical appliance is subject to a reduced rate of State tax 1%.

94-0347 08/12/1994 A medical appliance (defined as an item which is intended by its manufacturer for use in directly substituting for a malfunctioning part of the body) qualifies for a lower (1%) tax rate. (This is a GIL.)

94-0358 08/22/1994 Hospital beds and mattresses do not qualify for the low rate of tax. They do not fall within the definition of medical appliances because they do not directly substitute for a

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malfunctioning part of the body. (This is a GIL.)

94-0384 09/14/1994 If a needle free injection system acts as a direct replacement for syringes and needles used in treating diabetes in humans, the system will qualify for the 1% reduced rate of tax provided for Insulin, urine testing materials, syringes, and needles used in treating diabetes in human beings. (This is a GIL.)

94-0391 09/16/1994 Angioplastic catheters do not qualify as medical appliances and are therefore subject to the normal rate of tax of 6.25%. They are not items which are used as a direct substitute for a malfunctioning part of the body but rather are used in the treatment of individuals. (This is a GIL.)

94-0403 09/26/1994 Devices that are used for diagnostic or treatment purposes do not qualify for the lower 1% tax rate applicable to medical appliances. (This is a GIL.)

94-0404 09/26/1994 A medical appliance includes only those items which are intended by the manufacturer for use in directly substituting for a malfunctioning part of the body. Examples of qualifying items include crutches, wheelchairs, heart pacemakers and artificial limbs. Items such as eyeglasses also qualify for the exemption.

## MISCELLANEOUS

94-0249 07/01/1994 Survey Letter: SOT, Transportation charges, computer software.

94-0251 07/01/1994 This letter answers a number of issues regarding the sale of floorcoverings to consumers and contractors. (This is a GIL.)

94-0271 07/14/1994 Retailers' Occupation Tax is correctly charged to the coin-operated amusement company when it purchases coin-operated amusement devices for its use. When a company is also in the business of selling used coin-operated amusement devices, the company incurs Retailers' Occupation Tax upon the sale of the used devices, and no credit is provided for tax already paid for devices it has used as this is merely a cost of doing business. (This is a GIL.)

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94-0288 07/19/1994 This letter answers a number of questions concerning the taxability of sales, rentals, and repair of equipment. (This is a GIL.)

94-0294 07/21/1994 Sales of fuel used in the operation of ships which are used primarily in transportation of property or the conveyance of persons for hire on rivers bordering on this State

are exempt from Retailers' Occupation Tax if such fuel is delivered by the seller to the purchaser's ship while it is afloat upon such bordering river. (This is a GIL.)

94-0300 07/22/1994 The requirement that out-of-State retailers which have nexus with Illinois is statutory and it cannot be conditioned upon the Department's promise not to audit for taxes due prior to registration. Voluntary Disclosure is the subject of 86 Ill. Adm. Code Section 210.126.

94-0323 07/29/1994 The Illinois Department of Revenue has no authority to interpret Missouri sales tax law. (This is a GIL.)

94-0346 08/12/1994 The Tobacco Products Tax Act (35 ILCS 142/1 et seq.) applies to persons who sell or otherwise dispose of tobacco products in this State. The transfer of tobacco products by a registered distributor to a second registered distributor results in a taxable transfer by the first distributor. The second distributor then can transfer the tobacco products as "tax paid product" without incurring the Tax. (This is a PLR.)

94-0377 09/02/1994 The mailing of an advertisement brochure or pamphlet by an out-of-State retailer from an out-of-State location to a customer or potential customer in Illinois is not taxable under the Illinois Retailers' Occupation Tax Act or the Use Tax Act because the providing of an advertisement is not considered a retail sale of tangible personal property. (This is a GIL.)

94-0380 09/02/1994 Response is to an annual questionnaire. (This is a GIL.)

94-0381 09/14/1994 There is no State Retailers' Occupation Tax or Use Tax exemption for equipment that is purchased by a homeowner for use in generating electricity or recovering natural gas for that homeowner's lighting and heating needs. (This is a GIL.)

94-0410 09/26/1994 This letter answers a number of questions that

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\$1.50 include inquiries about exemptions for pallets, computer software, demonstration products, and maintenance agreements. (This is a GIL.)

MOTOR VEHICLES

94-0297 07/21/1994 Driveaway decals are for the purpose of taking a vehicle purchased in Illinois to a place outside of Illinois only and they are good for 10 days from the date of sale. If the vehicle has not left Illinois in 10 days from the date of sale, then sales tax is due on the gross receipts from the sale of the vehicle. (This is a GIL.)

94-0359 08/22/1994 This letter sets out that a motor vehicle dealer is required to file a sales tax transaction reporting return for every transaction. (This is a GIL.)

NEWSPRINT AND INK

94-0314 07/28/1994 A crossword puzzle publication which is published eight times per year and can be subscribed to constitutes a magazine which is exempt from tax.

94-0365 08/31/1994 Retailers who engage in retail sales of newspapers and magazines incur no Retailers' Occupation Tax liability. This includes comic books, crossword puzzle books, word search books, etc., which are published at least biannually. (This is a GIL.)

94-0374 09/02/1994 Sales of newspapers and magazines are not subject to Retailers' Occupation Tax when the publication is issued periodically and published at least twice a year. (This is a GIL.)

NEXUS

94-0372 08/31/1994 An out-of-State seminar provider incurs Retailers' Occupation Tax on the gross receipts from the sale of seminar manuals sold in Illinois by a representative of the seminar provider. (This is a GIL.)

94-0373 09/01/1994 The Department believes that a single appearance by a retailer at a trade show in Illinois, if due process was otherwise satisfied, would qualify under the bright line test set

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out in Quill Corp. v. North Dakota, 112 S.Ct. 1904 (1992). (This is a GIL.)

94-0406 09/27/1994 If there exists an out-of-State parent company with no nexus in Illinois that has two out-of-State subsidiaries which are separate legal entities (from each other and the parent), and one of those subsidiaries has voluntarily registered to collect the Use Tax in Illinois, the other subsidiary will not be required to register and collect Use Tax on its Illinois sales. (This is a GIL.)

OCCASIONAL SALE

94-0272 07/14/1994 Persons who make isolated or occasional sales do not incur Retailers' Occupation Tax liability. (This is a GIL.)

POLLUTION CONTROL FACILITIES

94-0282 07/15/1994 Asbestos removal system as whole qualifies for the pollution control exemption. This is a PLR.

94-0395 09/21/1994 The pollution control facilities exemption extends to "any system, method, construction, device or appliance appurtenant thereto sold or used or intended for the primary purpose of eliminating, preventing, or reducing air and water pollution as the term "pollution" is defined in the Environmental Protection Act (415 ILCS 5/1 et seq.), or for the primary purpose of treating, pretreating, modifying or disposing of any potential solid, liquid or gaseous pollutant which if released without such treatment, pretreatment, modification or disposal might be harmful detrimental or offensive to human, plant or animal life, or to property." (This is a GIL.)

94-0400 09/26/1994 A crusher or a compactor does not qualify for the pollution control exemption. The crushing function alone does not qualify a device as a pollution control facility because crushing merely changes the form resulting in a smaller package of waste. (This is a GIL.)

PREPAID SALES TAX

94-0296 07/21/1994 Prepaid sales tax on motor fuel should be deducted



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\$1.25 from the tax due from receipts and purchases on ST-1 Form in order to compute the net tax due for a month. (This is a GIL.)

## PRODUCTS OF PHOTOPROCESSING

94-0389 09/15/1994 A photographer may use the 10% rule only when selling the "products of photoprocessing" in conjunction with other services and a charge for the photoprocessing fee is not separately stated. If albums and frames are included in a photography "package", the price of those items must be separately apportioned and taxed at 100%. (This is a GIL.)

## PUBLIC UTILITY TAXES

94-0399 09/26/1994 When a customer provides water to a public utility, and that public utility makes steam from the water, which is returned to the customer for its manufacturing process, no Retailers' Occupation Tax or Use Tax is incurred by the utility company. If any chemicals or other tangible personal property is transferred to the customer incident to the generation and transfer of steam, the public utility will incur Service Occupation Tax. (This is a Private Letter Ruling)

## RETURNS

94-0354 08/18/1994 If a return is not signed, it is not considered to be filed. (This is a GIL.)

94-0355 08/22/1994 Every person engaged in the business of selling tangible personal property at retail must file a Form ST-1 on a monthly basis on or before the 20th day of each month. Taxpayers with very large average monthly liabilities are required to pay quarter monthly. A taxpayer can be authorized by the Department to file a quarterly or annual return. (This is a GIL.)

## ROLLING STOCK EXEMPTION

94-0252 07/05/1994 Rolling stock exemption not available for use of garden tractor in towing private corporate jet to and from storage. (This is a GIL.)

94-0261 07/12/1994 Limousine services cannot claim the rolling stock

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\$1.25 exemption by documenting (via affidavit) that they are not required to be registered with either the Illinois Commerce Commission, the Interstate Commerce Commission or another Federal regulatory agency. (This is a GIL.)

94-0276 07/14/1994 The rolling stock exemption applies to tangible personal property that becomes a physical, component part of rolling stock and participates directly in the transportation process. Motor oil and other lubricating oils may qualify for the rolling stock exemption if they are used in qualifying rolling stock and the purchaser provides the required certification to the seller. (This is a GIL.)

94-0295 07/20/1994 This letter concerns the applicability of the rolling stock exemption to tarpaulins, winches, bars, chains, and straps that are used to protect items on flat bed trailers. (This is a GIL.)

94-0301 07/22/1994 86 Ill. Adm. Code Section 130.340 (e) explains that part of the carrier's certification for the rolling stock exemption is its Interstate Commerce Commission Certificate of Authority number. If it is a carrier that is not required to have such a number, it must include its Illinois Commerce Commission Certificate of Authority number, or if it is a type of carrier subject to regulation by a Federal regulatory agency other than the Interstate Commerce Commission, its registration number from that agency. (This is a GIL.)

94-0412 09/30/1994 Limousine services are not recognized by the Interstate Commerce Commission or any other regulatory agency as interstate carrier for hire. Therefore, limousines they purchase do not qualify for the rolling stock exemption. (This is a GIL.)

## SALE AT RETAIL

94-0327 08/01/1994 When a veterinarian sells tangible personal property of the type available at pet stores or other retail stores, he incurs a Retailers' Occupation Tax liability, even though the products are prescribed by him. Such items would include (but are not limited to) flea powder, collars, and certain types of pet foods. It is immaterial that the specific type of flea collar, for instance, which he sells is not sold by another retailer. Rather, the test is that he is in competition with

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that retailer in selling flea collars or powder. (This is a GIL.)

94-0392 09/15/1994 A dealer selling half interest in a plane to another dealer is required to file an ST-556 form, and if an exemption from tax applies, is required to document the exemption.

## SALE FOR RESALE

94-0256 07/05/1994 The sales of styrofoam plates and trays to a vending machine company for use in manufacturing hot packaged meals are not subject to the Retailers' Occupation Tax if they are intended for resale as part of the food or beverage sold from the vending machine. (This is a GIL.)

94-0257 07/07/1994 The Department does not authorize direct payments. A purchaser must provide a valid Certificate of Resale if he is purchasing for resale. (This is a GIL.)

94-0267 07/13/1994 Persons who engage exclusively in making sales for resale (wholesale) are not required to register, file returns and remit tax to the Department. Such persons need not obtain Certificates of Resale to document transactions for resale purposes. (This is a GIL.)

94-0311 07/27/1994 When a reseller with no nexus with Illinois, requests that his vendor, who is an Illinois Use Tax collector, drop ship tangible personal property to the reseller's customers in Illinois, the vendor is required to either document the resale exemption or collect tax from the reseller. To avoid tax, the reseller must provide the vendor with a Certificate of Resale, or, if he cannot do this, he must provide "other evidence" that the purchase is for resale. The latter method is permissible, but is not recommended. (This is a GIL.)

94-0331 08/04/1994 Sales of tangible personal property that goes into and forms a part of tangible personal property subsequently the subject of a sale at retail, are not taxable, provided proper documentation is obtained. (This is a GIL.)

94-0349 08/15/1994 Sellers of containers to purchasers who sell tangible personal property contained in such containers to others are deemed to make sales to such purchasers for purposes of resale. Consequently, the receipts from these sales are not subject to Retailers' Occupation Tax, provided that the purchasers of the containers transfer the ownership of the containers to their

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customers together with the tangible personal property contained therein. (This is a GIL.)

94-0353 08/15/1994 Failure to present an active registration number or resale number along with a certification to the seller that a sale is for resale, creates a presumption that a sale is not for resale. However, recent legislative changes also authorize

retailers to rebut this presumption with "other evidence" that the sale is for resale purposes.

94-0386 09/15/1994 Disposable security labels that are only used for loss prevention by a retailer are being used by the retailer and are not being purchased by the retailer for resale. The sale of these labels to a retailer is for the retailer's use or consumption and is subject to Retailers' Occupation Tax and Use Tax. (This is a GIL.)

## SALE OF SERVICE

94-0255 07/05/1994 A service provider may qualify as de minimus if he determines that his annual aggregate cost price of tangible personal property transferred as an incident of the sale of service is less than 35% of his annual gross receipts from service transactions (75% in the case of pharmacists and persons engaged in graphic arts production). (This is a GIL.)

94-0258 07/11/1994 The liability which a service customer incurs will depend upon the manner in which the serviceman handles his Service Occupation Tax liability. (This is a GIL.)

94-0260 07/12/1994 This letter describes the different methods that servicemen are authorized to utilize to handle their SOT liability. (This is a GIL.)

94-0287 07/19/1994 This letter explains the different methods servicemen may use to handle their Service Occupation Tax liability. (This is a GIL.)

94-0292 07/20/1994 The purchase of tangible personal property that is transferred by a serviceman to a service customer may result in either Service Occupation Tax liability or Use Tax liability for the serviceman, depending upon which tax base the serviceman chooses to calculate his or her liability. (This is a GIL.)

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94-0309 07/26/1994 Servicemen who are eligible to utilize the "de  
\$1.25 minus unregistered" method handle their SOT liability by paying  
Use Tax to their supplier on the cost price of the tangible  
personal property transferred incident to service. If the  
supplier is not registered to collect and remit the Use Tax, then  
the serviceman must register with the Department to self-assess  
and remit the Use Tax. (This is a GIL.)

94-0320 07/28/1994 Sellers of personalized business calling cards,  
\$1.25 letterheads, envelopes, labels, name plates, badges, medallions  
and the like do not incur Retailers' Occupation Tax liability on  
their receipts from such sales because they are engaged in a  
service occupation. (This is a GIL.)

94-0324 07/29/1994 When a flooring retailer sells carpeting with tack  
\$1.25 down installation, the carpeting remains tangible personal  
property and the sale is subject to Retailers' Occupation Tax.  
The tack down installation charges would also be taxable if the  
installation is included as part of the selling price. (This is  
a GIL.)

94-0378 09/02/1994 A serviceman may calculate his tax base for tangible  
\$1.50 personal property transferred incident to service in one of four  
ways: (1) separately stated selling price; (2) 50% of the  
serviceman's entire bill; (3) Service Occupation Tax on the  
serviceman's cost price if the serviceman is a registered de  
minimus serviceman; or, (4) Use Tax on the serviceman's cost  
price if the serviceman is de minimus and is not otherwise  
required to be registered under the Retailers' Occupation Tax  
Act. (This is a GIL.)

94-0396 09/23/1994 Gross receipts for janitorial services in which no  
\$1.00 tangible personal property is transferred incident to those  
services are not subject to Retailers' Occupation Tax or Use Tax  
in Illinois. (This is a GIL.)

## TELECOMMUNICATIONS EXCISE TAX

94-0274 07/14/1994 Federal reserve banks are exempt from taxation  
\$1.25 imposed under the Illinois Telecommunications Excise Tax Act.  
(This is a PLR.)

94-0290 07/20/1994 This letter discusses the applicability of the

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\$2.00 Telecommunications Excise Tax to access charges, activation fees,  
airtime fees, equipment and installation sales, maintenance  
agreements, repair charges, equipment insurance charges, trunk  
line purchases, voice mail, call forwarding, conference calling,  
roaming charges and private network charges. (This is a GIL.)

94-0293 07/20/1994 A municipality is not exempt from state and local  
\$1.25 taxes on telecommunications purchased from a retailer. Federal  
and State governments, State Universities created by statute,  
and sales between a parent corporation and its wholly owned  
subsidiaries or between wholly owned subsidiaries are exempt from  
the imposition of these taxes. (This is a GIL.)

94-0363 08/30/1994 Answering services are types of services that are  
\$1.25 directly related to a retailer's provision of telecommunications  
services and are subject to the Telecommunications Excise Tax.  
(This is a GIL.)

94-0367 08/31/1994 Persons who provide satellite television services,  
\$1.50 including basic network channels, pay per view movies, concerts  
and sporting events, are not subject to the Telecommunication  
Excise Tax.

94-0383 09/14/1994 The gross charges for teleconferencing services that  
\$1.25 include the reselling of telephone services are subject to the  
Telecommunications Excise Tax Act. (This is a GIL.)

94-0385 09/15/1994 A telecommunications retailer may provide its  
\$1.00 customer with debit cards or prepaid calling cards if the amount  
of the telecommunications charges that the card is redeemed for  
includes any amount of Illinois Telecommunications Excise Tax  
that has been incurred. (This is a GIL.)

## TEMPORARY STORAGE

94-0348 08/12/1994 The temporary storage exemption applies only to  
\$1.25 tangible personal property which is acquired outside this State  
and which subsequent to being brought into this State and stored  
here temporarily... is altered by converting, fabricating,  
manufacturing, printing, processing or shaping, and, as altered,  
is used solely outside this State. (This is a GIL.)

94-0350 08/15/1994 This letter explains how to document the temporary



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\$1.25 storage exemption. (This is a GIL.)

## USE TAX

94-0245 07/01/1994 This letter discusses several ways to account for the  
\$1.25 Retailers' Occupation Tax and Use Tax when selling or giving  
away cellular phones. (This is a GIL.)

94-0253 07/05/1994 No Illinois Use Tax liability is incurred on the cost  
\$1.25 price of natural gas purchased at a well head outside Illinois.

94-0321 07/28/1994 If purchase orders are solicited in Illinois by a  
\$1.00 sales representative but the seller accepts the purchaser orders  
outside Illinois and the seller does not maintain an inventory in  
Illinois, then the seller is required to collect Illinois Use Tax  
from Illinois customers and remit that tax to the Department.  
(This is a GIL.)

94-0325 07/22/1994 Sellers of maintenance agreements do not incur  
\$1.25 Retailers' Occupation Tax when the agreement is sold. However,  
they owe Use Tax on the tangible personal property which is  
transferred incident to completion of the maintenance agreement.

94-0366 08/31/1994 In Illinois, donors of tangible personal property are  
\$1.25 considered to be the users of the property they donate to others.  
Consequently, they owe Use Tax on the cost price of that  
property. See copy of Section 150.305(c).

## VEHICLE USE TAX

94-0322 07/29/1994 If a person is in the business of renting automobiles  
\$1.25 in Illinois under lease terms of more than one year, the gross  
receipts from those transactions are not subject to Retailers'  
Occupation Tax or the Automobile Renting Occupation and Use Tax  
Act. The lessor is subject to Use Tax on the cost of the vehicles  
that are rented or leased. (This is a GIL.)

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1. Statute requiring agency to publish information concerning Private Letter  
Rulings in the Illinois Register:

Name of Act: Illinois Department of Revenue Sunshine Act Citation: 20  
ILCS 2515/1 et seq.

2. Summary of information:

Index of Department of Revenue income tax Private Letter Rulings and  
General Information Letters issued for the Fourth Quarter of 1994.  
Private letter rulings are issued by the Department in response to  
specific taxpayer inquiries concerning the application of a tax statute or  
rule to a particular fact situation. Private letter rulings are binding  
on the Department only as to the taxpayer who is the subject of the  
request for ruling. (See 86 Ill. Adm. Code 1200.110) General information  
letters are issued by the Department in response to written inquiries from  
taxpayers, taxpayer representatives, business, trade, industrial  
associations or similar groups. General information letters contain  
general discussions of tax principles or applications. General  
information letters are designed to provide general background information  
on topics of interest to taxpayers. General information letters do not  
constitute statements of agency policy that apply, interpret, or prescribe  
tax laws administered by the Department. General information letters may  
not be relied upon by taxpayers in taking positions with reference to tax  
issued and create no rights for taxpayers under the Taxpayers' Bill of  
Rights Act. (See 86 Ill. Adm. Code 1200.120)

The letters are listed numerically, are identified as either a General  
Information Letter or a Private Letter Ruling and are summarized with a  
brief synopsis under the following subjects:

Addition Modifications	Property Factor
Bond Premium Amortization	Sales Factor
Dividends	Transportation Services
Interest	Other Rulings
Net Operating Loss	(Not Included Above)
Zero Coupon Bonds	Assessment
Other Rulings	Bankruptcy
(Not Included Above)	Base Income
Administrative Review	(Also See Addition Modifications
Allocation	Fringe Benefits, Subtraction
	Modi-
	fications)
(For Alternative Apportionment	Books and Records
Rulings, See that heading)	Bulk Sales: See Sales Outside
Alternative Apportionment	the
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Amnesty	(Bulk

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   Coal Research and Utilization  
   Credit for Replacement Tax  
     Paid  
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     Investment  
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   Interest on Refunds and  
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     Modification Subtraction: See  
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     cations  
   fications  
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   and  
   Composite Return rulings,  
   see those  
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     (Not Included Above)  
   S Corporations  
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   Business (Bulk Sales)  
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   Refunds  
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Bond Premium Amortization  
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Employee Benefits  
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Personal Service Contracts (IITA 1405.2)  
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Copies of the ruling letters themselves are available for inspection and may be purchased for a minimum of \$1.00 per opinion plus 25 cents per page for each page over one.

The indexes of Income Tax letter rulings for 1990, 1991, 1992 and 1993, are available for \$3.00. A cumulative Income Tax Sunshine Index of 1981 through 1989 letter rulings may be purchased for \$4.00.

## 3. Name and address of person to contact concerning this information:

Margaret Forth  
Office of the General Counsel  
101 West Jefferson Street  
Springfield, Illinois 62794 Telephone: (217) 782-6996

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## ALTERNATIVE ALLOCATION

IT 94-0115 \$1.75 - General Information  
Letter: 10/04/1994 Denial of a petition for alternative apportionment. The Department concluded that the taxpayer had not demonstrated that the three-factor formula operates unreasonably and arbitrarily in attributing to Illinois a percentage of income that is out of all proportion to the business transacted in this State.

## APPORTIONMENT - FINANCIAL ORGANIZATIONS

IT 94-0124 \$2.25 - Private Letter  
Ruling: 10/21/1994 Ruling concerning whether certain interest income should be included in the numerator of the financial organization's apportionment ratio.

## APPORTIONMENT - TRANSPORTATION SERVICES

IT 94-0148 \$2.50 - General Information  
Letter: 12/29/1994 Section 304(a) of the Illinois Income Tax Act provides that business income derived from furnishing transportation services, other than from that derived by transportation by pipeline, shall be apportioned to this State by multiplying such income by a fraction, the numerator of which is the revenue miles of the company in this State and the denominator of which is the revenue miles of the company everywhere.

## BASE INCOME

(Also See Addition Modifications, Fringe Benefits, Subtraction Modifications)

IT 94-0137 \$1.25 - General Information Letter:  
12/04/1994 The Illinois income tax is imposed, in general, on all income received by an Illinois resident from whatever source (within or outside of Illinois). The starting point in determining an individual's net income subject to Illinois tax is federal adjusted gross income. However, an Illinois resident receives a foreign tax credit for a tax imposed by another state on the same income subject



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Letter: 10/11/1994 The Department is in the midst of developing rules on the Training Expense Credit. At present, there are Department letter rulings that stand for the proposition that service industries generally are ineligible for the Training Expense Credit. However, if the proposed rules on the Training Expense Credit that have been developed are adopted, the Training Expense Credit would apply to service industries.

IT 94-0126 \$1.25 - General Information  
Letter: 10/31/1994 The Department has proposed rules on the Training Expense Credit. The new proposed rules will be published in the November 4, 1994 edition of the Illinois Register.

ESTIMATED TAX

IT 94-0142 \$1.50 - General Information  
Letter: 12/19/1994 Section 803(a) of the Illinois Income Tax Act requires that every taxpayer other than an estate, a trust, a partnership, a subchapter S corporation or a farmer, is required to pay estimated tax for the taxable year if the amount payable as estimated tax can reasonably be expected to be more than \$250, or \$400 for corporations.

EXEMPT ORGANIZATIONS

IT 94-0122 \$1.25 - General Information  
Letter: 10/18/1994 Pursuant to Section 205(a) of the Illinois Income Tax Act, an organization that is exempt from federal income taxation by reason of Section 501(a) of the Internal Revenue Code is also, without application, exempt from Illinois income taxation unless it has unrelated business taxable income as determined under Section 512 of the Internal Revenue Code.

FIDUCIARIES

IT 94-0120 \$1.50 - Private Letter  
Ruling: 10/12/1994 Section 502(b)(2) of the Illinois Income Tax Act provides that "if an

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to Illinois tax (see Section 601(b)(3) of the Illinois Income Tax Act.)

IT 94-0143 \$1.50 - General Information  
Letter: 12/20/1994 Section 203(b) of the Illinois Income Tax Act explains the manner in which base income of a corporation is determined for purposes of the Illinois Income Tax Act. IITA Section 203(b)(1) provides that base income means "an amount equal to the taxpayer's (federal) taxable income for the taxable year..." subject to certain statutory addition and subtraction modifications.

COMPENSATION

IT 94-0125 \$1.25 - General Information  
Letter: 10/31/1994 Section 100.7010(a) of the Department's rules provides three tests for determining whether compensation constitutes "compensation paid in Illinois." Under all three tests, an individual's service must be rendered in Illinois to some degree in order to constitute compensation paid in Illinois.

CREDITS - RESEARCH AND DEVELOPMENT CREDIT

IT 94-0119 \$1.25 - General Information  
Letter: 10/12/1994 We are unable to rule that the research and development credit will pass through to S corporation shareholders. Based on our examination of the language of the research and development credit, the language of the various other credits from the Illinois Income Tax Act and the history of the enactment of the various other credits under the IITA, we do not believe that the Department has the authority to authorize a pass-through of the research and development credit to S corporation shareholders by letter ruling. Unlike other credits under the Illinois Income Tax Act, the research and development credit has no language authorizing the pass-through of the credit to S corporation shareholders.

CREDITS - TRAINING EXPENSE

IT 94-0118 \$1.50 - General Information

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individual is unable to make a return or notice required under this Act, the return or notice required of such individual shall be made by his duly authorized agent, guardian, fiduciary or other person charged with the care of the person or property of such individual."

MISCELLANEOUS

- IT 94-0121 \$5.25 - General Information  
Letter: 10/14/1994 Response to survey.
- IT 94-0129 \$1.50 - General Information  
Letter: 11/03/1994 Response to a request for a review of the accuracy of a tax-related publication.
- IT 94-0131 \$1.50 - General Information  
Letter: 11/04/1994 Response to an annual survey concerning pension taxation.

- IT 94-0149 \$1.25 - General Information  
Letter: 12/30/1994 12/30/1994 In instances involving past due child support, the Illinois Public Aid Code authorizes the Illinois Department of Public Aid to provide by rule for certification to the Comptroller of past due child support owed by responsible relatives under a support order entered by a court or administrative body of this or any other State. This certification is to intercept, among other things, State income tax refunds.

PROTEST

- IT 94-0127 \$1.25 - General Information  
Letter: 10/31/1994 General discussion of procedures for protesting a Notice of Deficiency.
- IT 94-0134 \$1.25 - General Information  
Letter: 11/29/1994 Response to a request to review the accuracy of a tax-related publication.

PUBLIC LAW 86-272/NEXUS

- IT 94-0116 \$1.75 - General Information  
Letter: 10/07/1994 The Department is currently

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studying the issue of whether Public Law 86-272 protection should be afforded to companies that engage in deliveries by company personnel using company vehicles.

- IT 94-0139 \$1.25 - General Information  
Letter: 12/15/1994 A general discussion of nexus principles.

- IT 94-0140 \$1.75 - General Information  
Letter: 12/16/1994 A general discussion of nexus principles.

- IT 94-0146 \$1.75 - General Information  
Letter: 12/29/1994 General discussion of nexus principles.

RESIDENCY/NONRESIDENCY

- IT 94-0117 \$1.50 - General Information  
Letter: 10/07/1994 IITA Section 1501(a)(20) sets forth the statutory definition of residency. This section provides in relevant part that "the term 'resident' means (a) an individual (i) who is in this State for other than a temporary or transitory purpose during the taxable year; or (ii) who is domiciled in this State but is absent from the State for a temporary or transitory purpose during the taxable year."

S CORPORATIONS

- IT 94-0128 \$1.25 - General Information  
Letter: 10/31/1994 Subchapter S corporations are subject to the personal property tax replacement income tax. The tax is imposed at a rate of 1.5% of the taxpayer's net income for the taxable year.

- IT 94-0150 \$1.25 - General Information  
Letter: 12/30/1994 Section 203 of the Illinois Income Tax Act sets forth the manner in which base income of individuals, corporations (including S corporations), partnerships and trusts and estates is determined for Illinois income tax purposes.

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SUBTRACTION MODIFICATIONS - ENTERPRISE AND FOREIGN TRADE ZONES

IT 94-0141 \$1.75 - Private Letter Ruling: 12/19/1994 In order to qualify for the enterprise zone dividend subtraction authorized by Section 203(a)(2)(J) of the Illinois Income Tax Act, the company must be able to demonstrate that 95% or more of the company's operations are conducted in an Enterprise Zone.

SUBTRACTION MODIFICATIONS - OTHER RULINGS

IT 94-0123 \$1.00 - General Information  
Letter: 10/18/1994 Section 203(a)(2)(F) of the Illinois Income Tax Act provides individuals with a subtraction for distributions from IRAs included in federal adjusted gross income pursuant to Section 408 of the Internal Revenue Code.

IT 94-0132 \$1.25 - General Information  
Letter: 11/10/1994 The bonds issued under the authority of Sections 7.80-7.87 of the Illinois Development Finance Authority Act are bonds issued for purposes of the Financially Distressed Cities Program.

IT 94-0135 \$1.25 - General Information  
Letter: 11/29/1994 Response to an annual survey concerning the tax treatment of municipal bonds.

TRUSTS

IT 94-0138 \$1.25 - General Information  
Letter: 12/08/1994 According to Section 502(a)(2) of the Illinois Income Tax Act, a charitable remainder trust which is a "resident" pursuant to IITA Section 1501(a)(20)(C) or (D) is required to file a form IL-1041 if the trust is required to file a federal income tax return, regardless of whether the trust is liable for an Illinois income tax.

UNITARY

IT 94-0136 \$2.25 - General Information

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Letter: 11/30/1994 The determination of whether a subsidiary corporation will be able to file a combined return with the parent corporation is a particularly fact-dependent determination. Such a determination will not be the subject of a private letter ruling.

IT 94-0145 \$1.75 - General Information  
Letter: 12/28/1994 According to IITA Section 1501(a)(27), the term "unitary business group" is defined as "...a group of persons related through common ownership whose business activities are integrated with, dependent upon and contribute to each other." Common ownership in the case of corporations is the direct or indirect control or ownership of more than 50% of the outstanding voting stock of the persons carrying on the unitary business activity.

WITHHOLDING - OTHER RULINGS

IT 94-0130 \$1.75 - General Information  
Letter: 11/04/1994 IITA Section 701(a) establishes the basic parameters of Illinois law concerning income tax withholding. This section provides, in pertinent part, that if withholding is required for federal income tax purposes, it will also be required for Illinois income tax purposes.

IT 94-0133 \$1.00 - General Information  
Letter: 11/10/1994 IITA Section 701(a) provides in pertinent part that if withholding is required for federal income tax purposes, it will also be required for Illinois income tax purposes. Therefore, to the extent that domestic service employees are not subject to federal income tax withholding, they will also not be subject to Illinois income tax withholding.

IT 94-0144 \$1.50 - Other Rulings - General Information  
Letter: 12/20/1994 While although generally State withholding requirements parallel federal requirements, Section 203(a)(2)(F) of the Illinois Income Tax Act provides a subtraction modification from federal adjusted gross income for certain retirement plans, disability plans and pension distributions. As a result, State withholding is not required with



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respect to those amounts.

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REGULATORY AGENDA

- 1) Heading of the Part: Bingo License and Tax Act
- 2) Code Citation: 86 Ill. Adm. Code 430
- 3) A description of the rule(s): This rulemaking will update Part 430 to clarify Department policy.
- 4) Statutory Authority: 230 ILCS 25
- 5) Schedule of dates for hearings, meetings, or other opportunities for public participation: No schedule has been established at this time.
- 6) Date agency anticipates submitting to the Index Department a Notice of Proposed Rules (Amendments, Repeal) for publication in the Illinois Register: As noted above, there will be a number of rulemakings proposed with respect to Part 430 over the next six months. We anticipate filing rulemakings amending Part 430 on a regular basis during the first 6 months of this year.
- 7) Information concerning the regulatory agenda shall be directed to:

Name: George Sorensen, Senior Counsel  
Address: Illinois Department of Revenue  
101 W. Jefferson, 5-500  
Springfield, IL 62794  
Telephone: (217) 782-7054
- 8) Will this rule (amendment, repeal) affect small business, small municipalities or not for profit corporations? These amendments will affect the non-for-profit organizations which hold bingo licenses.
- 9) Other pertinent information concerning this rule (amendment, repeal):

None

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## REGULATORY AGENDA

## REGULATORY AGENDA

None

- 1) Heading of the Part: Charitable Games Act
- 2) Code Citation: 86 Ill. Adm. Code 435
- 3) A description of the rule(s): A major rulemaking is necessary to implement the provisions of P.A. 88-669, which extensively revised the Charitable Games Act. New definitions have been added, and organizations applying for licenses must follow new application procedures. New provisions now allow municipalities to provide premises for charitable game nights for 16 charitable games nights in a 12-month period. The Act also now clarifies how many times a licensed provider, other than a municipality, may provide premises for conducting charitable games. New restrictions also apply to the conducting of charitable games. In addition, specific restrictions apply to consultant companies. New criminal and civil penalties are also now applicable to all licensees and others who violate the Act or rules. The rules will also be amended to reflect requirements of P.A. 87-1271, which allows qualified fraternal mutual benefit organizations to apply for a license, and which expands the hours during which charitable games may be played. The rules will also be amended generally to clarify Department policies.
- 4) Statutory Authority: 230 ILCS 30
- 5) Schedule of dates for hearings, meetings, or other opportunities for public participation: No schedule has been established at this time.
- 6) Date agency anticipates submitting to the Index Department a Notice of Proposed Rules (Amendments, Repealer) for publication in the Illinois Register: As noted above, there will be a number of rulemakings proposed with respect to Part 435 over the next six months. We anticipate filing rulemakings amending Part 435 on a regular basis during the first 6 months of this year.

Name: George Sorensen  
Address: Senior Counsel  
Illinois Department of Revenue  
101 W. Jefferson, 5-500  
Springfield, IL 62794  
Telephone: (217)782-7054
- 7) Information concerning the regulatory agenda shall be directed to:
- 8) Will this rule (amendment, repealer) affect small business, small municipalities or not for profit corporations? These amendments will affect all businesses and organizations which are eligible for licensure under the Charitable Games Act.
- 9) Other pertinent information concerning this rule (amendment, repealer):

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- 1) Heading of the Part: Cigarette Tax Act
- 2) Code Citation: 86 Ill. Adm. Code 440
- 3) A description of the rule(s): Regulations are necessary to clarify what is meant by "a person who makes, manufactures, or fabricates cigarettes as a part of a correctional industries program for sale to residents incarcerated in penal institutions or resident patients of a State-operated mental health facility." Such person is not considered to be a "distributor" subject to the tax. There is currently nothing in the cigarette regulations which clarifies this term.  
Also, the Department will continue the updating of Part 440.
- 4) Statutory Authority: 35 ILCS 130
- 5) Schedule of dates for hearings, meetings, or other opportunities for public participation: No schedule has been established at this time.
- 6) Date agency anticipates submitting to the Index Department a Notice of Proposed Rules (Amendments, Repeal) for publication in the Illinois Register: We anticipate filing rulemakings amending Part 440 during the first 6 months of this year.
- 7) Information concerning the regulatory agenda shall be directed to:  
Name: George Sorensen, Senior Counsel  
Address: Illinois Department of Revenue  
101 W. Jefferson, 5-500  
Springfield, IL 62794  
Telephone: (217)782-7054
- 8) Will this rule (amendment, repealer) affect small business, small municipalities or not for profit corporations? This rulemaking will affect persons subject to the Cigarette Tax Act.
- 9) Other pertinent information concerning this rule (amendment, repealer):  
None

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## REGULATORY AGENDA

- 1) Heading of the Part: Coin-Operated Amusement Device
- 2) Code Citation: 86 Ill. Adm. Code 460
- 3) A description of the rule(s): Section 460.110. The license year runs from August 1 through July 31. This rule currently provides that a fractional license will not be issued for less than a month. Many times, events occur towards the end of the license period for which a person wants a license for less than a month. The rules currently prohibit this. We wish to amend the rules to allow this practice.  
In addition, the Coin-Operated Amusement Device Tax Act was amended by P.A. 87-855 to tax and regulate "redemption machines". The term, "redemption machine," is defined in the Criminal Code. This new development should be reflected in the rules (i.e., defined and included in provisions governing taxation and licensure).
- Finally, the Department will continue the updating of Part 460.
- 4) Statutory Authority: 35 ILCS 510
- 5) Schedule of dates for hearings, meetings, or other opportunities for public participation: No schedule has been established at this time.
- 6) Date agency anticipates submitting to the Index Department a Notice of Proposed Rules (Amendments, Repeal) for publication in the Illinois Register: As noted above, there will be a number of rulemakings proposed with respect to Part 460 over the next six months. We anticipate filing a rulemaking amending Part 460 during the first 6 months of this year.
- 7) Information concerning the regulatory agenda shall be directed to:  
Name: George Sorensen, Senior Counsel  
Address: Illinois Department of Revenue  
101 W. Jefferson, 5-500  
Springfield, IL 62794  
Telephone: (217) 782-7054
- 8) Will this rule (amendment, repealer) affect small business, small municipalities or not for profit corporations? This rulemaking will affect any small business that maintains coin-operated amusement devices or redemption machines.
- 9) Other pertinent information concerning this rule (amendment, repealer):  
None



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1) Heading of the Part: Hotel Operators' Occupation Tax2) Code Citation: 86 Ill. Adm. Code 480

3) A description of the rule(s): These rules require amendment to include the provisions of P.A. 87-951, which amended the definition of "permanent resident".

Also, the Department will continue the updating of Part 480.

4) Statutory Authority: 35 ILCS 145

5) Schedule of dates for hearings, meetings, or other opportunities for public participation: No schedule has been established at this time.

6) Date agency anticipates submitting to the Index Department a Notice of Proposed Rules (Amendments, Repealer) for publication in the Illinois Register: We anticipate filing rulemakings amending Part 480 during the first 6 months of this year.

7) Information concerning the regulatory agenda shall be directed to:

Name: George Sorensen

Address: Senior Counsel

Illinois Department of Revenue

101 W. Jefferson, 5-500

Springfield, IL 62794

Telephone: (217)782-7054

8) Will this rule (amendment, repealer) affect small business, small municipalities or not for profit corporations? These amendments will affect persons subject to the Hotel Operators' Occupation Tax.

9) Other pertinent information concerning this rule (amendment, repealer):  
None.

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1) Heading of the Part: Income Tax2) Code Citation: 86 Ill. Adm. Code 100

3) A description of the rule(s): New rules will be added to Part 100 concerning the foreign tax credit against the income tax (IITA Section 601(b)(3)), the tax credit for Tech Prep Youth Vocational Programs (IITA Section 209), and the Dependent Care Assistance Credit (IITA Section 210).

Part 100 will be amended by the addition of rules governing the definition of "financial organization" (IITA Section 1501(a)(8)) and rules governing the Director's exercise of discretionary authority relative to reallocation of items under Section 404 of the Illinois Income Tax Act.

Subpart P of Part 100 will be amended to update the Department's rules concerning the filing of combined returns under Section 502(e) of the Illinois Income Tax Act.

Some rules changes will be made to Part 100, as a result of recent legislation. As a result of the adoption of P.A. 88-669, rules with respect to acceptance of substitute W-2s will be proposed. Pursuant to 88-648, the Department has been working on the development of rules to implement the Medical Care Savings Account Act.

Finally, the Department will continue the updating of Part 100.

4) Statutory Authority: 35 ILCS 5/101 and 35 ILCS 5/1401

5) Schedule of dates for hearings, meetings, or other opportunities for public participation: No schedule has been established at this time.

6) Date agency anticipates submitting to the Index Department a Notice of Proposed Rules (Amendments, Repealer) for publication in the Illinois Register: As noted above, there will be a number of rulemakings proposed with respect to Part 100 over the next six months. We anticipate filing rulemakings amending Part 100 on a regular basis during the first 6 months of this year.

7) Information concerning the regulatory agenda should be directed to:

Name: Keith Staats

Senior Counsel - Income Tax

Address: Illinois Department of Revenue

101 W. Jefferson, 5-500

Springfield, IL 62794

Telephone: (217) 782-6336

8) Will this rule (amendment, repealer) affect small business, small

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municipalities or not for profit corporations? These rulemakings will affect any business that incurs an income tax filing obligation.

- 9) Other pertinent information concerning this rule (amendment, repealer):  
None

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## REGULATORY AGENDA

- 1) Heading of the Part: Pull Tabs and Jar Games Act

- 2) Code Citation: 86 Ill. Adm. Code 432

- 3) A description of the rule(s): This rulemaking will update Part 432 to reflect new legislation and a clarify Department policy. For example, P.A. 87-1271 amended the Act to provide that qualified local fraternal mutual benefit organizations are eligible for licenses.

- 4) Statutory Authority: 230 ILCS 20

- 5) Schedule of dates for hearings, meetings, or other opportunities for public participation: No schedule has been established at this time.

- 6) Date agency anticipates submitting to the Index Department a Notice of Proposed Rules (Amendments, Repeal) for publication in the Illinois Register: As noted above, there will be a number of rulemakings proposed with respect to Part 432 over the next six months. We anticipate filing rulemakings amending Part 432 on a regular basis during the first 6 months of this year.

- 7) Information concerning the regulatory agenda shall be directed to:

George Sorensen, Senior Counsel  
Illinois Department of Revenue  
101 W. Jefferson, 5-500  
Springfield, IL 62794  
(217) 782-7054

- 8) Will this rule (amendment, repealer) affect small business, small municipalities or not for profit corporations? These amendments will affect persons eligible to receive licenses under the Pull Tabs and Jar Games Act.

- 9) Other pertinent information concerning this rule (amendment, repealer):  
None

## DEPARTMENT OF REVENUE

## REGULATORY AGENDA

1) Heading of the Part: Retailers' Occupation Tax2) Code Citation: 86 Ill. Adm. Code 130

3) A description of the rule(s): Amendments will be made to update the Retailers' Occupation Tax regulations to reflect new statutory developments and decisional law.

The Department will also continue the updating of Part 130.

4) Statutory Authority: 35 ILCS 120

5) Schedule of dates for hearings, meetings, or other opportunities for public participation: No schedule has been established at this time.

6) Date agency anticipates submitting to the Index Department a Notice of Proposed Rules (Amendments, Repealer) for publication in the Illinois Register: As noted above, there will be a number of rulemakings proposed with respect to Part 130 over the next six months. We anticipate filing rulemakings amending Part 130 on a regular basis during the first 6 months of this year.

7) Information concerning the regulatory agenda shall be directed to:

Name: George Sorensen, Senior Counsel  
Address: Illinois Department of Revenue  
101 W. Jefferson, 5-500  
Springfield, IL. 62794  
Telephone: (217) 782-7054

8) Will this rule (amendment, repealer) affect small business, small municipalities or not for profit corporations? Small businesses that sell tangible personal property at retail will be affected by these regulations.

9) Other pertinent information concerning this rule (amendment, repealer):  
None

## DEPARTMENT OF REVENUE

## REGULATORY AGENDA

1) Heading of the Part: Service Occupation Tax2) Code Citation: 86 Ill. Adm. Code 140

3) A description of the rule(s): These rules are part of a general update of the Service Occupation Tax regulations to reflect new statutory developments and decisional law.

The Department will also continue the updating of Part 140.

4) Statutory Authority: 35 ILCS 115

5) Schedule of dates for hearings, meetings, or other opportunities for public participation: No schedule has been established at this time.

6) Date agency anticipates submitting to the Index Department a Notice of Proposed Rules (Amendments, Repealer) for publication in the Illinois Register: As noted above, there will be a number of rulemakings proposed with respect to Part 140 over the next six months. We anticipate filing rulemakings amending Part 140 on a regular basis during the first 6 months of this year.

7) Information concerning the regulatory agenda shall be directed to:

Name: George Sorensen, Senior Counsel  
Address: Illinois Department of Revenue  
101 W. Jefferson, 5-500  
Springfield, IL 62794  
Telephone: (217) 782-7054

8) Will this rule (amendment, repealer) affect small business, small municipalities or not for profit corporations? Servicemen transferring tangible personal property incident to service will be affected by these rules.

9) Other pertinent information concerning this rule (amendment, repealer):  
None



DEPARTMENT OF REVENUE

REGULATORY AGENDA

1) Heading of the Part: Telecommunications Excise Tax

2) Code Citation: 86 Ill. Adm. Code 495

3) A description of the rule(s): The rules will be amended to clarify both current statutory provisions and Department policy. Many new technologies have evolved since the Act was established, and the manner in which these technologies are taxed can be clarified in the rules.

4) Statutory Authority: 35 ILCS 630

5) Schedule of dates for hearings, meetings, or other opportunities for public participation: No schedule has been established at this time.

6) Date agency anticipates submitting to the Index Department a Notice of Proposed Rules (Amendments, Repealer) for publication in the Illinois Register: We anticipate filing rulemakings amending Part 495 during the first 6 months of this year.

7) Information concerning the regulatory agenda shall be directed to:

Name: George Sorensen  
Address: Senior Counsel  
Illinois Department of Revenue  
101 W. Jefferson, 5-500  
Springfield, IL 62794  
Telephone: (217) 782-7054

8) Will this rule (amendment, repealer) affect small business, small municipalities or not for profit corporations: Retailers of telecommunications will be affected by these regulations.

9) Other pertinent information concerning this rule (amendment, repealer):  
None

JOINT COMMITTEE ON ADMINISTRATIVE RULES  
ILLINOIS GENERAL ASSEMBLY

SECOND NOTICES RECEIVED

The following second notices were received by the Joint Committee on Administrative Rules during the period of January 31, 1995 through February 6, 1995, and have been scheduled for review by the Committee at its February 7, 1995 or March 14, 1995 meeting. Other items not contained in this published list may also be considered. Members of the public wishing to express their views with respect to a rule should submit written comments to the Committee at the following address: Joint Committee on Administrative Rules, 700 Stratton Bldg., Springfield, IL 62706.

Second Notice Expires	Agency and Rule	Start of First Notice	JCAR Meeting
3/18/95	Department of Public Health/Health Facilities Planning Board, Narrative and Planning Policies (77 Ill Adm Code 1100)	6/24/94 18 Ill Reg 9357	2/7/95
3/18/95	Department of Public Health/Health Facilities Planning Board, Processing, Classification Policies and Review Criteria (77 Ill Adm Code 1110)	6/24/94 18 Ill Reg 9364	2/7/95
3/17/95	Illinois Commerce Commission, Repeal of Least-Cost Planning for Natural Gas Utilities (83 Ill Adm Code 535)	4/22/94 18 Ill Reg 6081	3/14/95
3/22/95	Department of Rehabilitation Services, Repeal of Program Description (89 Ill Adm Code 675)	11/4/94 18 Ill Reg 16210	3/14/95
3/22/95	Department of Rehabilitation Services, Program Description (89 Ill Adm Code 676)	11/4/94 18 Ill Reg 16219	3/14/95
3/22/95	Department of Rehabilitation Services, Customer Rights and Responsibilities (89 Ill Adm Code 677)	11/4/94 18 Ill Reg 16105	3/14/95

JOINT COMMITTEE ON ADMINISTRATIVE RULES  
ILLINOIS GENERAL ASSEMBLY

## SECOND NOTICES RECEIVED

Second Notice Expires	Agency and Rule	Start of First Notice	JCAR Meeting
3/22/95	Department of Rehabilitation Services, Repeal of Client Rights (89 Ill Adm Code 678)	11/4/94 18 Ill Reg 16099	3/14/95
3/22/95	Department of Rehabilitation Services, Determination of Need (DON) and Resulting Service Cost Maximums (SCMs) (89 Ill Adm Code 679)	11/4/94 18 Ill Reg 16111	3/14/95
3/22/95	Department of Rehabilitation Services, Repeal of Client Responsibilities (89 Ill Adm Code 680)	11/4/94 18 Ill Reg 16095	3/14/95
3/22/95	Department of Rehabilitation Services, Prescreening (89 Ill Adm Code 681)	11/4/94 18 Ill Reg 16199	3/14/95
3/22/95	Department of Rehabilitation Services, Eligibility (89 Ill Adm Code 682)	11/4/94 18 Ill Reg 16121	3/14/95
3/22/95	Department of Rehabilitation Services, Repeal of Application Process (89 Ill Adm Code 683)	11/4/94 18 Ill Reg 16080	3/14/95
3/22/95	Department of Rehabilitation Services, Service Planning and Provisions (89 Ill Adm Code 684)	11/4/94 18 Ill Reg 16264	3/14/95
3/22/95	Department of Rehabilitation Services, Repeal of Non-Financial Eligibility Criteria (89 Ill Adm Code 685)	11/4/94 18 Ill Reg 16163	3/14/95

JOINT COMMITTEE ON ADMINISTRATIVE RULES  
ILLINOIS GENERAL ASSEMBLY

## SECOND NOTICES RECEIVED

Second Notice Expires	Agency and Rule	Start of First Notice	JCAR Meeting
3/22/95	Department of Rehabilitation Services, Provider Requirements, Type Services, and Rates of Payment (89 Ill Adm Code 686)	11/4/94 18 Ill Reg 16228	3/14/95
3/22/95	Department of Rehabilitation Services, Repeal of Financial Eligibility Criteria (89 Ill Adm Code 687)	11/4/94 18 Ill Reg 16129	3/14/95
3/22/95	Department of Rehabilitation Services, Repeal of Prescreening and Eligibility Determination Processes (89 Ill Adm Code 690)	11/4/94 18 Ill Reg 16204	3/14/95
3/22/95	Department of Rehabilitation Services, Repeal of Disposition of Application (89 Ill Adm Code 693)	11/4/94 18 Ill Reg 16117	3/14/95
3/22/95	Department of Rehabilitation Services, Repeal of Service Provision (89 Ill Adm Code 695)	11/4/94 18 Ill Reg 16270	3/14/95
3/22/95	Department of Rehabilitation Services, Repeal of Redetermination of Eligibility (89 Ill Adm Code 698)	11/4/94 18 Ill Reg 16249	3/14/95
3/22/95	Department of Rehabilitation Services, Repeal of Service Plan Development (89 Ill Adm Code 700)	11/4/94 18 Ill Reg 16253	3/14/95

JOINT COMMITTEE ON ADMINISTRATIVE RULES  
ILLINOIS GENERAL ASSEMBLY

SECOND NOTICES RECEIVED

Second Notice Expires	Agency and Rule	Start of First Notice	JCAR Meeting
3/22/95	Department of Rehabilitation Services, Repeal of Case Closures (89 Ill Adm Code 705)	11/4/94 18 Ill Reg 16085	3/14/95
3/22/95	Department of Rehabilitation Services, Repeal of Case Transfers/Referrals (89 Ill Adm Code 708)	11/4/94 18 Ill Reg 16091	3/14/95
3/22/95	Department of Rehabilitation Services, Repeal of Case Records (89 Ill Adm Code 710)	11/4/94 18 Ill Reg 16088	3/14/95
3/22/95	Department of Rehabilitation Services, Repeal of Homemaker Rate Agreements (89 Ill Adm Code 712)	11/4/94 18 Ill Reg 16143	3/14/95
3/22/95	Department of Rehabilitation Services, Repeal of Non-Homemaker Service Provider Requirements (89 Ill Adm Code 714)	11/4/94 18 Ill Reg 16187	3/14/95
3/22/95	Pollution Control Board, Organic Material Emission Standards and Limitations for the Chicago Area (35 Ill Adm Code 218) (R94-1)	10/14/94 18 Ill Reg 15211	3/14/95
3/22/95	Pollution Control Board, Definitions and General Provisions (35 Ill Adm Code 211) (R94-1)	10/14/94 18 Ill Reg 15192	3/14/95
3/22/95	Pollution Control Board, Organic Material Emission Standards and Limitations for the Metro East Area (35 Ill Adm Code 219) (R94-1)	10/14/94 18 Ill Reg 15274	3/14/95

ACTION CODES

A - Adopted Rule	P - Proposed Rule
AR - Adopted Repealer	PF - Prohibited Filing Order by JCAR*
C - Notice of Corrections	PP - Peremptory or Court Ordered Rules
CC - Codification Changes	PR - Proposed Repealer
E - Emergency Rule	R - Refusal to meet JCAR* Objection
ER - Emergency Repealer	RC - Statement of Recommendation
M - Modification to meet JCAR*	S - Suspension ordered by JCAR*
O - JCAR* Statement of Objections	W - Withdrawal to meet JCAR*
RQ - Request for Correction	MR - Modification and Refusal
EC - Expedited Corrections	*Joint Committee on Administrative Rules

ALL RULES ARE LISTED BY PART NUMBER AND HEADING ONLY. (FOR ACTION ON SPECIFIC SECTIONS, PLEASE REFER TO THE SECTIONS AFFECTED INDEX.) IF THERE ARE ANY QUESTIONS, PLEASE CONTACT THE ADMINISTRATIVE CODE DIVISION AT (217) 782-7017.

AGING, DEPARTMENT ON

89 Ill. Adm. Code 240 Community Care Program (P-1363)

AGRICULTURE, DEPARTMENT OF

8 Ill. Adm. Code 255 Agrichemical Facilities (P-1)  
8 Ill. Adm. Code 60 Bees And Apiary Act (P-754)  
8 Ill. Adm. Code 256 Lawncare Wash Water And Rinsate Collection (P-13)  
8 Ill. Adm. Code 125 Meat And Poultry Inspection Act (PP-1342)

ALCOHOLISM AND SUBSTANCE ABUSE, DEPARTMENT OF

77 Ill. Adm. Code 2090 Subacute Alcoholism And Substance Abuse Treatment Services (P-1156)

CENTRAL MANAGEMENT SERVICES, DEPARTMENT OF

44 Ill. Adm. Code 5000 Acquisition, Management & Disposal Of Real Property (P-5057/94;A-585)  
80 Ill. Adm. Code 310 Pay Plan (P-764) (P-14256/94;A-1024)  
80 Ill. Adm. Code 2110 State Of Illinois Dependent Care Assistance Plan (P-774)  
80 Ill. Adm. Code 2120 State Of Illinois Medical Care Assistance Plan (P-779)  
80 Ill. Adm. Code 2800 Travel (P-12567/94;A-36)

CHILDREN AND FAMILY SERVICES, DEPARTMENT OF



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89 Ill. Adm. Code 428	Department Advisory Council, Illinois Juvenile Justice Commission And Other Statewide And Regional Committees (P-561/94;A-1043)	
89 Ill. Adm. Code 402	Licensing Standards For Foster Family Homes (A-1801)	
89 Ill. Adm. Code 302	Services Delivered By The Department (P-1372)	
<b>COMMERCE AND COMMUNITY AFFAIRS, DEPARTMENT OF</b>		
14 Ill. Adm. Code 550	Local Tourism And Convention Bureau Program (A-1808)	
<b>COMMERCE COMMISSION, ILLINOIS</b>		
92 Ill. Adm. Code 1202	Applications (P-522)	
92 Ill. Adm. Code 1205	Fees And Taxes (P-525)	
<b>COMPTROLLER MERIT COMMISSION</b>		
80 Ill. Adm. Code 100	Merit Commission Rules (P-12585/94;A-206)	
<b>COMPTROLLER, OFFICE OF THE</b>		
74 Ill. Adm. Code 285	Claim Eligible To Be Offset (P-12944/94;A-227)	
<b>CONSERVATION, DEPARTMENT OF</b>		
17 Ill. Adm. Code 130	Camping On Department Of Conservation Properties (P-1378)	
17 Ill. Adm. Code 1075	Consultation Procedures For Assessing Impacts Of Agency Actions On Endangered And Threatened Species And Natural Areas (P-14259/94;A-594)	
17 Ill. Adm. Code 110	Public Use Of State Parks & Other Properties Of The Department Of Conservation (P-1387)	
17 Ill. Adm. Code 670	White-Tailed Deer Hunting By Use Of Bow And Arrow (P-1393)	
17 Ill. Adm. Code 650	White-Tailed Deer Hunting By Use Of Firearms (P-1414)	
17 Ill. Adm. Code 660	White-Tailed Deer Hunting Season By Use Of Muzzleloading Rifles (P-1437)	
<b>CORRECTIONS, DEPARTMENT OF</b>		
20 Ill. Adm. Code 425	Chaplaincy (P-152)	
<b>ENVIRONMENTAL PROTECTION AGENCY</b>		
35 Ill. Adm. Code 372	Illinois Design Standards For Slow Rate Land Application Of Treated Wastewater (P-4524/94;A-1297)	
<b>FARM DEVELOPMENT AUTHORITY, ILLINOIS</b>		
8 Ill. Adm. Code 1400	Illinois Farm Development Authority (P-1164)	
<b>FINANCIAL INSTITUTIONS, DEPARTMENT OF</b>		
38 Ill. Adm. Code 110	Consumer Installment Loan Act (P-14291/94;A-44)	
38 Ill. Adm. Code 160	Sales Finance Agency Act (P-14276/94;A-49)	

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77 Ill. Adm. Code 2510	Data Collection (A-1825)	
<b>HIGHER EDUCATION, BOARD OF</b>		
23 Ill. Adm. Code 1020	Health Services Education Grants Act (P-11684/94;A-928)	
<b>HOUSING DEVELOPMENT AUTHORITY, ILLINOIS</b>		
47 Ill. Adm. Code 366	Affordable Housing Bond Program-Single Family (P-1452) (E-1921)	
<b>INDUSTRIAL COMMISSION</b>		
50 Ill. Adm. Code 7060	Judicial Review (P-16217/84;A-2496/85;RQ-292)	
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50 Ill. Adm. Code 3401	Summary Document, Disclaimer & Notice (P-784)	
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56 Ill. Adm. Code 250	Illinois Child Labor Law (P-19)	
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11 Ill. Adm. Code 1770	Lottery (General) (P-791)	
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62 Ill. Adm. Code 1847	Administrative And Judicial Review (P-1454)	
62 Ill. Adm. Code 1761	Areas Designated By Act Of Congress (P-1470)	
62 Ill. Adm. Code 1800	Bonding And Insurance Requirements For Surface Coal Mining And Reclamation Operations (P-1474)	
62 Ill. Adm. Code 1845	Civil Penalties (P-1481)	
62 Ill. Adm. Code 1840	Department Inspections (P-1485)	
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62 Ill. Adm. Code 1816	Underground Mining Operations (P-1530)	
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62 Ill. Adm. Code 1773	Requirements For Coal Exploration (P-1631)	
62 Ill. Adm. Code 1785	Requirements For Permits And Permit Processing (P-1637)	
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62 Ill. Adm. Code 1774	Revision; Renewal; And Transfer, Assignment, Or Sale Of Permit Rights (P-1663)	
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62 Ill. Adm. Code 1843	State Enforcement (P-1682)		89 Ill. Adm. Code 170	Demonstration Programs (P-530) (E-645)	
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62 Ill. Adm. Code 1784	Underground Mining Permit Applications--Minimum Requirements For Reclamation And Operation Plan (P-1712)		89 Ill. Adm. Code 104	Practice In Administrative Hearings (P-14615/94;A-1321)	
62 Ill. Adm. Code 1783	Underground Mining Permit Applications--Minimum Requirements For Information On Environmental Resources (P-1706)		89 Ill. Adm. Code 147	Reimbursement For Nursing Costs For Geriatric Facilities (P-1730)	
<b>NUCLEAR SAFETY, DEPARTMENT OF</b>			89 Ill. Adm. Code 117	Related Program Provisions (P-14303/94;A-1103)	
32 Ill. Adm. Code 360	Use Of X-Rays In The Healing Arts Including Medical, Dental, Podiatry, And Veterinary Medicine (P-163) (E-273)		89 Ill. Adm. Code 102	Rights And Responsibilities (P-13723/94;P-14622/94;A-1108)	
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35 Ill. Adm. Code 303	Water Use Designations And Site Specific Water Quality Standards (P-14219/94;A-1310)		<b>PUBLIC HEALTH, DEPARTMENT OF</b>		
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68 Ill. Adm. Code 1150	Illinois Architecture Practice Act Of 1989 (P-1180)		77 Ill. Adm. Code 693	Control Of Sexually Transmissible Diseases Code (P-8850/94;A-1126)	
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 95-013 Eli Lipschultz Day  
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SECTIONS AFFECTED INDEX

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This Sections Affected Index lists, by title, each Section of a Part on which Rule Making has occurred in this volume (calendar year) of the Illinois Register. The columns indicate the type of rulemaking activity and the action taken along with the page number on which the first page of the notice of rulemaking activity appeared. If a Section on which action is being taken in the current volume of the Register is proposed in a previous volume, the last two digits of the previous volume's year appear immediately after the page number separated by a slash, (e.g.: 11 III. Adm. Code 465.115 was proposed last year and adopted this year. The action entry reads: (P-15655/94; A-6520). The codes are listed below.

## TYPE OF RULE MAKING

am = amend to existing Section  
 cc = codification changes  
 n = New section  
 r = repeal of existing Section  
 re = reclassified  
 # = renumbered

## ACTION CODE

A = Adopted Rule  
 E = Emergency  
 P = Proposed Rule  
 PP = Peremptory  
 M = Modification  
 W = Withdrawal  
 CC = Codification Changes  
 RQ = Request for Correction  
 R = Refusal  
 PF = Prohibited Filing  
 S = Suspension  
 O = JCAR Objection  
 F = Failure to Remedy Objections  
 Objection  
 RC = Recommendations  
 EC = Expedited Correction  
 C = Correction

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## TITLE 2

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TITLE 17 (CONT'D)			TITLE 23 (CONT'D)			TITLE 47 (CONT'D)			TITLE 68 (CONT'D)			TITLE 77 (CONT'D)		
(P-1425/94; A-594)	am	1075.10	(P-894)	am	2763.20	(P-1452) (E-1921)	am	366.113	(P-1870)	am	1240.45	am	(P-1745)	
(P-1425/94; A-594)	am	1075.20	(P-894)	am	2763.40	(P-1452) (E-1921)	am	366.20	(P-1870)	am	1240.46	am	(P-1745)	
(P-1425/94; A-594)	am	1075.30	(P-894)	am	2764.10	(P-1452) (E-1921)	am	366.20	(P-1452) (E-1921)	am	1240.47	am	(P-1745)	
(P-1425/94; A-594)	am	1075.40	(P-894)	am	2764.20	(P-1452) (E-1921)	am	366.20	(P-1452) (E-1921)	am	1240.48	am	(P-1745)	
(P-1425/94; A-594)	am	1075.50	(P-894)	am	2764.30	(P-1452) (E-1921)	am	366.30	(P-1452) (E-1921)	am	1240.50	am	(P-1745)	
(P-1425/94; A-594)	am	1075.60	(P-894)	am	2764.40	(P-1452) (E-1921)	am	366.30	(P-1452) (E-1921)	am	1240.51	am	(P-1745)	
(P-1425/94; A-594)	am	1075.70	(P-894)	am	2764.50	(P-1452) (E-1921)	am	366.40	(P-1452) (E-1921)	am	1240.55	am	(P-1745)	
(P-1425/94; A-594)	am	1075.80	(P-894)	am	2765.10	(P-1452) (E-1921)	am	366.40	(P-1452) (E-1921)	am	1240.60	am	(P-1745)	
(P-1425/94; A-594)	am	1075.90	(P-894)	am	2765.20	(P-1452) (E-1921)	am	366.40	(P-1452) (E-1921)	am	1240.65	am	(P-1745)	
(P-1425/94; A-594)	am	1076.00	(P-894)	am	2765.30	(P-1452) (E-1921)	am	366.40	(P-1452) (E-1921)	am	1240.66	am	(P-1745)	
(P-1425/94; A-594)	am	1076.10	(P-894)	am	2765.40	(P-1452) (E-1921)	am	366.40	(P-1452) (E-1921)	am	1240.67	am	(P-1745)	
(P-1425/94; A-594)	am	1076.20	(P-894)	am	2765.50	(P-1452) (E-1921)	am	366.40	(P-1452) (E-1921)	am	1240.70	am	(P-1745)	
(P-1425/94; A-594)	am	1076.30	(P-894)	am	2766.10	(P-1452) (E-1921)	am	366.40	(P-1452) (E-1921)	am	1240.75	am	(P-1745)	
(P-1425/94; A-594)	am	1076.40	(P-894)	am	2766.20	(P-1452) (E-1921)	am	366.40	(P-1452) (E-1921)	am	1240.80	am	(P-1745)	
(P-1425/94; A-594)	am	1076.50	(P-894)	am	2766.30	(P-1452) (E-1921)	am	366.40	(P-1452) (E-1921)	am	1240.85	am	(P-1745)	
(P-1425/94; A-594)	am	1076.60	(P-894)	am	2766.40	(P-1452) (E-1921)	am	366.40	(P-1452) (E-1921)	am	1240.90	am	(P-1745)	
(P-1425/94; A-594)	am	1076.70	(P-894)	am	2766.50	(P-1452) (E-1921)	am	366.40	(P-1452) (E-1921)	am	1240.95	am	(P-1745)	
(P-1425/94; A-594)	am	1076.80	(P-894)	am	2766.60	(P-1452) (E-1921)	am	366.40	(P-1452) (E-1921)	am	1241.00	am	(P-1745)	
(P-1425/94; A-594)	am	1076.90	(P-894)	am	2766.70	(P-1452) (E-1921)	am	366.40	(P-1452) (E-1921)	am	1241.00	am	(P-1745)	
(P-1425/94; A-594)	am	1077.00	(P-894)	am	2766.80	(P-1452) (E-1921)	am	366.40	(P-1452) (E-1921)	am	1241.00	am	(P-1745)	
(P-1425/94; A-594)	am	1077.10	(P-894)	am	2766.90	(P-1452) (E-1921)	am	366.40	(P-1452) (E-1921)	am	1241.00	am	(P-1745)	
(P-1425/94; A-594)	am	1077.20	(P-894)	am	2767.10	(P-1452) (E-1921)	am	366.40	(P-1452) (E-1921)	am	1241.00	am	(P-1745)	
(P-1425/94; A-594)	am	1077.30	(P-894)	am	2767.20	(P-1452) (E-1921)	am	366.40	(P-1452) (E-1921)	am	1241.00	am	(P-1745)	
(P-1425/94; A-594)	am	1077.40	(P-894)	am	2767.30	(P-1452) (E-1921)	am	366.40	(P-1452) (E-1921)	am	1241.00	am	(P-1745)	
(P-1425/94; A-594)	am	1077.50	(P-894)	am	2767.40	(P-1452) (E-1921)	am	366.40	(P-1452) (E-1921)	am	1241.00	am	(P-1745)	
(P-1425/94; A-594)	am	1077.60	(P-894)	am	2767.50	(P-1452) (E-1921)	am	366.40	(P-1452) (E-1921)	am	1241.00	am	(P-1745)	
(P-1425/94; A-594)	am	1077.70	(P-894)	am	2767.60	(P-1452) (E-1921)	am	366.40	(P-1452) (E-1921)	am	1241.00	am	(P-1745)	
(P-1425/94; A-594)	am	1077.80	(P-894)	am	2767.70	(P-1452) (E-1921)	am	366.40	(P-1452) (E-1921)	am	1241.00	am	(P-1745)	
(P-1425/94; A-594)	am	1077.90	(P-894)	am	2767.80	(P-1452) (E-1921)	am	366.40	(P-1452) (E-1921)	am	1241.00	am	(P-1745)	
(P-1425/94; A-594)	am	1078.00	(P-894)	am	2767.90	(P-1452) (E-1921)	am	366.40	(P-1452) (E-1921)	am	1241.00	am	(P-1745)	
(P-1425/94; A-594)	am	1078.10	(P-894)	am	2768.00	(P-1452) (E-1921)	am	366.40	(P-1452) (E-1921)	am	1241.00	am	(P-1745)	
(P-1425/94; A-594)	am	1078.20	(P-894)	am	2768.10	(P-1452) (E-1921)	am	366.40	(P-1452) (E-1921)	am	1241.00	am	(P-1745)	
(P-1425/94; A-594)	am	1078.30	(P-894)	am	2768.20	(P-1452) (E-1921)	am	366.40	(P-1452) (E-1921)	am	1241.00	am	(P-1745)	
(P-1425/94; A-594)	am	1078.40	(P-894)	am	2768.30	(P-1452) (E-1921)	am	366.40	(P-1452) (E-1921)	am	1241.00	am	(P-1745)	
(P-1425/94; A-594)	am	1078.50	(P-894)	am	2768.40	(P-1452) (E-1921)	am	366.40	(P-1452) (E-1921)	am	1241.00	am	(P-1745)	
(P-1425/94; A-594)	am	1078.60	(P-894)	am	2768.50	(P-1452) (E-1921)	am	366.40	(P-1452) (E-1921)	am	1241.00	am	(P-1745)	
(P-1425/94; A-594)	am	1078.70	(P-894)	am	2768.60	(P-1452) (E-1921)	am	366.40	(P-1452) (E-1921)	am	1241.00	am	(P-1745)	
(P-1425/94; A-594)	am	1078.80	(P-894)	am	2768.70	(P-1452) (E-1921)	am	366.40	(P-1452) (E-1921)	am	1241.00	am	(P-1745)	
(P-1425/94; A-594)	am	1078.90	(P-894)	am	2768.80	(P-1452) (E-1921)	am	366.40	(P-1452) (E-1921)	am	1241.00	am	(P-1745)	
(P-1425/94; A-594)	am	1079.00	(P-894)	am	2768.90	(P-1452) (E-1921)	am	366.40	(P-1452) (E-1921)	am	1241.00	am	(P-1745)	
(P-1425/94; A-594)	am	1079.10	(P-894)	am	2769.00	(P-1452) (E-1921)	am	366.40	(P-1452) (E-1921)	am	1241.00	am	(P-1745)	
(P-1425/94; A-594)	am	1079.20	(P-894)	am	2769.10	(P-1452) (E-1921)	am	366.40	(P-1452) (E-1921)	am	1241.00	am	(P-1745)	
(P-1425/94; A-594)	am	1079.30	(P-894)	am	2769.20	(P-1452) (E-1921)	am	366.40	(P-1452) (E-1921)	am	1241.00	am	(P-1745)	
(P-1425/94; A-594)	am	1079.40	(P-894)	am	2769.30	(P-1452) (E-1921)	am	366.40	(P-1452) (E-1921)	am	1241.00	am	(P-1745)	
(P-1425/94; A-594)	am	1079.50	(P-894)	am	2769.40	(P-1452) (E-1921)	am	366.40	(P-1452) (E-1921)	am	1241.00	am	(P-1745)	
(P-1425/94; A-594)	am	1079.60	(P-894)	am	2769.50	(P-1452) (E-1921)	am	366.40	(P-1452) (E-1921)	am	1241.00	am	(P-1745)	
(P-1425/94; A-594)	am	1079.70	(P-894)	am	2769.60	(P-1452) (E-1921)	am	366.40	(P-1452) (E-1921)	am	1241.00	am	(P-1745)	
(P-1425/94; A-594)	am	1079.80	(P-894)	am	2769.70	(P-1452) (E-1921)	am	366.40	(P-1452) (E-1921)	am	1241.00	am	(P-1745)	
(P-1425/94; A-594)	am	1079.90	(P-894)	am	2769.80	(P-1452) (E-1921)	am	366.40	(P-1452) (E-1921)	am	1241.00	am	(P-1745)	
(P-1425/94; A-594)	am	1080.00	(P-894)	am	2769.90	(P-1452) (E-1921)	am	366.40	(P-1452) (E-1921)	am	1241.00	am	(P-1745)	
(P-1425/94; A-594)	am	1080.10	(P-894)	am	2770.00	(P-1452) (E-1921)	am	366.40	(P-1452) (E-1921)	am	1241.00	am	(P-1745)	
(P-1425/94; A-594)	am	1080.20	(P-894)	am	2770.10	(P-1452) (E-1921)	am	366.40	(P-1452) (E-1921)	am	1241.00	am	(P-1745)	
(P-1425/94; A-594)	am	1080.30	(P-894)	am	2770.20	(P-1452) (E-1921)	am	366.40	(P-1452) (E-1921)	am	1241.00	am	(P-1745)	
(P-1425/94; A-594)	am	1080.40	(P-894)	am	2770.30	(P-1452) (E-1921)	am	366.40	(P-1452) (E-1921)	am	1241.00	am	(P-1745)	
(P-1425/94; A-594)	am	1080.50	(P-894)	am	2770.40	(P-1452) (E-1921)	am	366.40	(P-1452) (E-1921)	am	1241.00	am	(P-1745)	
(P-1425/94; A-594)	am	1080.60	(P-894)	am	2770.50	(P-1452) (E-1921)	am	366.40	(P-1452) (E-1921)	am	1241.00	am	(P-1745)	
(P-1425/94; A-594)	am	1080.70	(P-894)	am	2770.60	(P-1452) (E-1921)	am	366.40	(P-1452) (E-1921)	am	1241.00	am	(P-1745)	
(P-1425/94; A-594)	am	1080.80	(P-894)	am	2770.70	(P-1452) (E-1921)	am	366.40	(P-1452) (E-1921)	am	1241.00	am	(P-1745)	
(P-1425/94; A-594)	am	1080.90	(P-894)	am	2770.80	(P-1452) (E-1921)	am	366.40	(P-1452) (E-1921)	am	1241.00	am	(P-1745)	
(P-1425/94; A-594)	am	1081.00	(P-894)	am	2770.90	(P-1452) (E-1921)	am	366.40	(P-1452) (E-1921)	am	1241.00	am	(P-1745)	
(P-1425/94; A-594)	am	1081.10	(P-894)	am	2771.00	(P-1452) (E-1921)	am	366.40	(P-1452) (E-1921)	am	1241.00	am	(P-1745)	
(P-1425/94; A-594)	am	1081.20	(P-894)	am	2771.10	(P-1452) (E-1921)	am	366.40	(P-1452) (E-1921)	am	1241.00	am	(P-1745)	
(P-1425/94; A-594)	am	1081.30	(P-894)	am	2771.20	(P-1452) (E-1921)	am	366.40	(P-1452) (E-1921)	am	1241.00	am	(P-1745)	
(P-1425/94; A-594)	am	1081.40	(P-894)	am	2771.30	(P-1452) (E-1921)	am	366.40	(P-1452) (E-1921)	am	1241.00	am	(P-1745)	
(P-1425/94; A-594)	am	1081.50	(P-894)	am	2771.40	(P-1452) (E-1921)	am	366.40	(P-1452) (E-1921)	am	1241.00	am	(P-1745)	
(P-1425/94; A-594)	am	1081.60	(P-894)	am	2771.50	(P-1452) (E-1921)	am	366.40	(P-1452) (E-1921)	am	1241.00	am	(P-1745)	
(P-1425/94; A-594)	am	1081.70	(P-894)	am	2771.60	(P-1452) (E-1921)	am	366.40	(P-1452) (E-1921)	am	1241.00	am	(P-1745)	
(P-1425/94; A-594)	am	1081.80	(P-894)	am	2771.70	(P-1452) (E-1921)	am	366.40	(P-1452) (E-1921)	am	1241.00	am	(P-1745)	
(P-1425/94; A-594)	am	1081.90	(P-894)	am	2771.80	(P-1452) (E-1921)	am	366.40	(P-1452) (E-1921)	am	1241.00	am	(P-1745)	
(P-1425/94; A-594)	am	1082.00	(P-894)	am	2771.90	(P-1452) (E-1921)	am	366.40	(P-1452) (E-1921)	am	1241.00	am	(P-1745)	
(P-1425/94; A-594)	am	1082.10	(P-894)	am	2772.00	(P-1452) (E-1921)	am	366.40	(P-1452) (E-1921)	am	1241.00	am	(P-1745)	
(P-1425/94; A-594)	am	1082.20	(P-894)	am	2772.10	(P-1452) (E-1921)	am	366.40	(P-1452) (E-1921)	am	1241.00	am	(P-1745)	
(P-1425/94; A-594)	am	1082.30	(P-894)	am	2772.20	(P-1452) (E-1921)	am	366.40	(P-1452) (E-1921)	am	1241.00	am	(P-1745)	
(P-1425/94; A-594)	am	1082.40	(P-894)	am	2772.30	(P-1452) (E-1921)	am	366.40	(P-1452) (E-1921)	am	1241.00	am	(P-1745)	
(P-1425/94; A-594)	am	1082.50	(P-894)	am	2772.40	(P-1452) (E-1921)	am	366.40	(P-1452) (E-1921)	am	1241.00	am	(P-1745)	
(P-1425/94; A-594)	am	1082.60	(P-894)	am	2772.50	(P-1452) (E-1921)	am	366.40	(P-1452) (E-1921)	am	1241.00	am	(P-1745)	
(P-1425/94; A-594)	am	1082.70	(P-894)	am	2772.60	(P-1452) (E-1921)	am	366.40	(P-1452) (E-1921)	am	1241.00	am	(P-1745)	







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